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ABSTRACT

Until recently, Kenya was considered an icon, a bastion of political stability and economic growth in East Africa and Africa in general. Forty-four years after gaining independence, and fifteen years since the beginning of multiparty democracy, the ruling elite touted this exceptionalism to conceal the historical grievances of marginalized communities. Given this background, the electoral violence experienced between December 2007 and March 2008 came as a surprise to many. Much scholarship on the topic focuses on the immediate triggers such as voting irregularities rather than the underlying conditions that existed prior to the violence. In this study, I attempt to identify the root causes of the electoral violence in Kenya by focusing on two main areas of historical marginalization: class and ethnic marginalization. The Kenyan crisis helps show some lessons for pan-African world.

Marginalization and Democracy: Kenya's 2007 Post Election Violence

By

Hamdi Ibrahim Tartarini

M.A., Syracuse University 2015

Thesis submitted in partial fulfillment of the requirements of the degree of Masters of Art in
Pan-African Studies in the Graduate School of Syracuse University

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Definitions of Terms

- *Mwakenya*: a political publication by University lecturers termed “subversive” by the state in mid 1980s.
- Waki Report (2008) Republic of Kenya: the popular name for Commission of Inquiry into Post-Election Violence. It was set up by the Coalition Government to investigate the facts and circumstances surrounding the Kenyan post-election violence.
- Coalition Government: an arrangement of power-sharing between two Kenyan political parties, PNU (headed by President Kibaki) and ODM (headed by Raila Odinga), leading to what Kenyans see as a ‘hybrid’ type of government.
- The Ndungu Report (2004) Republic of Kenya: a commission set up by the Kibaki regime to investigate patterns of corruption and unfair allocations of land.
- Historical injustices: unresolved grievances in Kenya dating back to the colonial times and the period immediately after independence.
- Akiwumi Report (1999) Republic of Kenya: the report of the judicial commission appointed by the Moi regime to inquire into the ethnic clashes in Kenya.
- *Jeshi la Mzee*: an informal security outfit of party youth that was maintained by the ruling party, KANU, in the 90s, and whose main role was to harass the opposition, the civil society groups and anyone else they viewed as being anti-Moi.
- PEV: acronym for Post-Election Violence

MAP OF KENYA



Map No. 4187 Rev. 1 UNITED NATIONS
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Table of Contents

Acknowledgements	iv
ABSTRACT	i
1.4.1 Electoral Violence Defined	12
1.4.2 Conceptual Framework	13
1.7 Chapter Outline	34
CHAPTER 2: LITERATURE REVIEW AND THEORETICAL FRAMEWORKS	35
2.1 Democratization and Institutionalism	35
2.2 Ethnicity	42
2.3 Class Analysis	55
CHAPTER 3: ROOTS OF MARGINALIZATION: LAND, ETHNICITY AND CLASS FORMATION	73
3.1 State and Class Formation	74
3.2 Ethnic-Politicization	85
3.3 Land Question as the Matrix of Political Conflict	105
CHAPTER 4: MARGINALIZATION AND ELECTORAL VIOLENCE	109
4.2 The making of a crisis	113
4.3 Electoral Fraud	121
4.4 The role of DIGITAL Revolution	128
4.5 Electoral Violence: A Description	131
4.6 The Role of Transition Institutions	135
4.8 State Power, Class and Violence	154
CONCLUSION AND IMPLICATIONS FOR PAN-AFRICANISM	165
APPENDIX	178
REFERENCE	179

CHAPTER 1: INTRODUCTION

1.1 The Problem

This thesis is about the 2007 electoral violence in Kenya. Kenya gained independence from Great Britain in 1963, and from then up until 2002 it was ruled by the political party Kenya African National Union (KANU). Post-colonial Kenya was ruled by the iron hands of two men in succession from 1963 to 2002, Jomo Kenyatta (1963-1978) and Daniel Arap Moi (1978-2002). KANU's dominance was achieved by banning opposition parties in 1969, moving Kenya from a *de facto* one-party state to a *de jure* one-party state when a constitutional amendment in 1978 ruled that no other party was able to contest the elections (Nyawalo, 2011, p.14). In 1991 after much pressure from Kenyan activists and the international community multi-party elections were re-introduced.

In 2002, there was a change in political leadership. That year, KANU, the country's ruling political party since independence was defeated, by a new political party: National Rainbow Coalition (NARC), formed by an alliance between the major Kenyan tribes as well as some of the marginalized communities. NARC came to power as the new coalition government promising to reform the existing constitution by limiting the executive power (presidency), while creating checks and balances between the executive, legislative and judicial branches of government (Adebayo, 2012, p.69). It also sought a power-sharing arrangement that would introduce the position of prime minister, put an end to corruption, tribalism, and bring about an equitable uplift of the living conditions for all Kenyans regardless of their ethnicity. They also promised to provide free primary education.

However, most of these promises were not kept. Corruption, cronyism and partisanship manifested in public offices (Adebayo, 2012, p.70). The constitution remained intact, and there was a lack of progressive reforms, such as institutionalizing transparency and accountability in public spheres. Kibaki's government designated numerous positions to his fellow tribesmen, which in turn provoked genuine resentment among the marginalized communities and also cemented the underlying causes of the 2007 post-election violence.

The 2007 general elections included parliamentary, presidential, and civic elections. Three main political parties emerged. The Party of National Union (PNU) was led by the incumbent President Mwai Kibaki; Kenya's current president Uhuru Kenyatta led the KANU party, and the opposition leader Raila Odinga formed ODM (Orange Democratic Movement). Despite some incidences of hate speech during the campaign period, the Election Day went forward without violent eruptions. On 30 December 2007, as vote tallying proceeded, suspicions of major rigging by the electoral commission mounted. Odinga, the main opposition leader, was leading the polls by 370,000 votes with 90 percent of the constituencies reporting (Adebayo, 2012, p.78). Ultimately he was announced the loser by 200,000 votes. Hours after the announcement of this highly controversial outcome, the Electoral Commission of Kenya (ECK) declared incumbent Mwai Kibaki of PNU re-elected as the President of Kenya (Lafargue, 2009, p.51). The use of state power to perpetrate electoral fraud led to protests against electoral rigging.

The swearing in ceremony was only witnessed by a few political backers and was not broadcast on television. ODM supporters immediately disputed the declared outcome of the presidential elections. Independent bodies that had observed the elections, including the European Union, the Commonwealth Observer Group, and the East African Community group, reported major flaws in the tallying of the presidential votes. Furthermore, the ECK chairman's

statements, before and after the announcement of the results, cast serious doubts on the credibility of the presidential tallies.

Violence erupted simultaneously throughout the country, taking everyone by surprise. The violence first seemed to be spontaneous; however, it soon became more organized and premeditated as local gangs took over (Murunga, 2011, p.15). The country descended into chaos and violence left at least 1,162 people dead and about 350,000 others displaced from their homes in a matter of just over a month. Gross violations of human rights took place in different parts of the country, particularly in Western, Nyanza, Rift Valley, Nairobi and the Coast provinces. Kenya has the reputation of being one of the very few “stable” states in Africa. However, retrospective glances at the historical events marking its political landscape reflect deep-lying violent structures that have been left unchecked for a very long time (Beigon, 2009, p.18).

Horried by the violence and the Kenyan government’s failure to protect civilians, regional and international actors responded swiftly. A swarm of mediators descended upon Kenya including President John Kufour of Ghana, Nobel Peace Laureate Archbishop Desmond Tutu, Mozambique’s Graça Machel, amongst others. Eventually, both parties entered into negotiations with a panel consisting of former UN-Secretary Kofi Annan (Nyawalo, p.15, 2011). The aim of the negotiations was to (1) take immediate action to stop the violence and restore fundamental rights and liberties; (2) address the humanitarian crisis and promote reconciliation, healing and restoration of calm; (3) overcome the political crisis; and (4) address long-term issues and the root causes of the conflict, including constitutional, legal and institutional reforms. The negotiations also set in motion a process of examining the institutional deficits that had contributed to the violence. Three commissions were established to identify contributing factors and develop policy recommendations to address them:

- The Independent Review Commission on the 2007 Elections (IREC), also known as the Kriegler Commission, mandated to review the electoral process.
- The Commission of Inquiry into Post-Election Violence (CIPEV), also known as the Waki Commission, mandated to analyze the factors contributing to the electoral violence and
- The National Task Force on Police Reform, mandated to review the conduct of the police.

A political compromise was reached that saw the two opposing parties sign a National Accord. One of the products of the Kofi-Annan-led mediation effort that brokered a power-sharing deal in late February 2008 was the formation of CIPEV. Kenyan judge Philip Waki chaired the commission. Waki passed the official Waki commission report to Kofi Annan with the list of names of those considered most responsible for the violence (Murunga & Shadrck, 2007, p.152). One of the many suggestions in the official report was that the Kenyan government establish a tribunal of both international and national judges to investigate and prosecute perpetrators of the gross human rights violations (Biegon, 2009), p.19). The commission gave the government a limited amount of time to agree to create a special tribunal, and made it clear that the commission would give its findings to the ICC if the government failed to establish the tribunal within the given timeframe. The public opted for the ICC to investigate the case for various reasons, including lack of faith in the local judicial system (Njogu, 2009, p.85). In February 2009, after the Kenyan Parliament voted against founding a tribunal and no further action was taken by the government, the Waki Commission handed over its information, including a list of those believed to be responsible for the violence, to the ICC.

This stalemate by the government prompted Louis Moreno Ocampo, the ICC prosecutor at that time, to investigate the Kenyan situation. On 26 November 2009, the Prosecutor requested permission from the court to investigate the crimes against humanity, and was granted permission to do so by the majority of the court. The summons was issued, on March 8, 2011. On January 23, 2012, charges were confirmed against Deputy Prime Minister Uhuru Kenyatta, Industrialization Minister and opposition leader Henry Kosgey, top opposition leader and former Education Minister William Ruto, former police commissioner Mohammed Hussein Ali, Cabinet Secretary Francis Muthaura and executive radio broadcaster Joshua Arap Sang (Arieff, 2010). The prosecutor presented the charges to Pre-Trial Chamber II as two separate cases. One case was the prosecution of Ali, Kenyatta, and Mathaura, and the second case was the prosecution of Kosgey, Ruto, and Sang. The six suspects, known colloquially as the "Ocampo six" were indicted by the ICC's Pre-Trial Chamber II on 8 March 2011 and summoned to appear before the Court (Smith, 2009, p.12). They were accused of being indirect cooperators at different locations particularly within the Rift Valley and major cities such as Nairobi, Nakuru, Kisumu and Mombasa. Their charges were murder, deportation or forcible transfer of a population, torture, persecution, rape and other forms of sexual violence. Sang was accused of thumping up ethnic hatred on the airwaves and planning attacks along with Kosgey and Ruto.

The government of Kenya and the National Assembly both attempted to stop the ICC process. The government appealed to both the United Nations Security Council and the Court itself regarding the admissibility of the case. The National Assembly voted in favor of removing Kenya as a state party to the Rome Statute, the international treaty that established the ICC. Despite this opposition, the suspects cooperated with the proceedings and attended preliminary

hearings in The Hague in April 2011 and confirmation of charges hearings in September of that year.

After carrying out investigations against six prominent individuals believed to be responsible for the crimes against humanity, the International Criminal Court investigation in Kenya decided to send three of them to trial. Charges against Ali, Kosgey and Muthaura were dropped; while those against William Ruto and Joshua Sang are on-going. Kenya's current President Uhuru Kenyatta was released for lack of sufficient evidence.

Kenya has remained central to the economic and security of East Africa. As neighboring countries faced social turmoil and political decay, Kenya maintained its position as beacon of political stability. The post-electoral violence that engulfed Kenya in 2007 marked the end of its regional uniqueness. It raised profound questions regarding the solidity and stability of the regional hegemon. To many scholars and analyst the profundity of Kenya's post-election political and humanitarian crisis has not been investigated enough. In fact 2007 post-0election violence remains a puzzle to many. It is this puzzle that I attempt to investigate in this study.

1.2 Objective and Interest of Study

The existing literature on Post-Election Violence tends to focus on the immediate triggers of the violence such as rigging or election fraud as opposed to examining the predisposing conditions that existed prior to the conflict. Of course, this approach does have its place in political analysis. Nevertheless, my objective in this research is to analyze the deeper issues surrounding the post-election violence, because even if presidential elections had not been rigged, violence may still have occurred. Explaining the deeper causes of the violence has the potential of contributing more to African politics.

The majority of studies on post-election violence have focused on cross-country comparisons, or on the usual “hot spots” such as Rift Valley, where the land question was heated. This gives a fragmented view of what is taking place in the society as whole because it limits the understanding of the risk factors for violence. It is evident from my observations that even so-called “peaceful” areas in the Kenyan context contain latent but very volatile elements likely to explode at the slightest provocation. For example the urban areas such as Nairobi, the capital city, Mombasa, and Kisumu, experience similar violent eruptions although not considered “hotspot” areas like Rift Valley. Therefore, my objective is to link other potential violent areas to my main hypothesis.

Such a deep understanding of the event and its consequences have implications for Kenya’s political development and the Pan-African world. I am interested in providing insight to policy makers and possible recommendations to the existing reforms and policies. The study draws from a wealth of historical, political, economic, demographic and socio-cultural sources to analyze factors that underlay the post-election violence and that may still place hurdles in the path of durable peace, improved democratic dispensation and equitable division of the national cake in Kenya. Furthermore, this study will contribute to existing literature on PEV by interweaving various theoretical frameworks such as democratization, institutionalism, ethnic conflict and class analysis which are indeed relevant to understanding the issues surrounding the political violence.

Last but not least, this study may serve to increase awareness among the general public and particularly the government officials who have vested interests in understanding the historical underpinnings of conflicts in Kenya.

Although the 2007 election had various implications and affected various social groups. This study does not address all those groups. For example, the question of women's role in post-election violence. The study also fails to address the role of trade unions in Kenya's struggle for democracy. Though these groups played a critical role and they are equally interesting to investigate, my research topic focuses on mobilization of ethnic differences and socio-economic marginalization of large segments of society.

1.3 Research Question

The above statement of the problem may raise a range of questions such as:

- **How did the lack of constitutional order and institutions impact the outcome of elections in Kenya?**

The existing reports by commissions of inquiry such as the Waki report and political statements made by scholars such as Professor Yash Ghai suggest that this is the central question. Waki's report asserted that constant and systematic violation of the constitution may have triggered post-electoral violence. The report blamed the subordination of the independent electoral commission, the police, and the judiciary to the executive power as a breach of rule of law, since they did not exercise their power as an independent entity (Ghai, 2009, p.3).

Proponents of constitutionalism/institutionalism may argue that constitutional vacuity was the underlying cause of the violence. Lack of a culture of constitutionalism has engendered the politics of ethno-regional exclusion and negative competition by vesting immense powers in the office of the presidency, minimizing public participation, and rendering state institutions ineffective (Ghai, 2009, p.3)

On the other hand, Professor Ghai argues that blaming a “bad constitution” for enormous powers vested in the office of, or illegally appropriated by, the president; the centralization of power in Nairobi; the lack of public participation; the lack of autonomy, effectiveness and legitimacy of state institutions is not the challenge facing Kenya. Instead it is the idea of establishing constitutional order. Enactment of a constitution is distinct from the adherence to its values, institutions and procedures. A constitution by itself makes no difference. Kenyan society determines the extent to which the constitution will be observed, manipulated, or disregarded, and therefore the extent to which constitutional reforms will have meaning. The notion of constitutional order is broader than merely the text of the constitution. It represents a fundamental commitment to the principles and procedures of the constitution and therefore emphasizes behavior, practice, and internalization of norms (Ghai, 2009, p.4).

For these reasons, implementing a constitution is not about this or that provision, or even the totality of the constitution, important as these are. It is about the inculcation of a culture of respect for and discipline of the law, acceptance of rulings by the courts and other bodies authorized to interpret the law, giving effect to judicial decisions, acceptance of the limits on the government, respecting and promoting human and collective rights, and equally important the participation and empowerment of the people (Ghai, 2009, p.5). Ultimately the people have to be guardians of the constitution. He concludes that the future of the Kenyan state as a viable entity lies in entrenching a culture of constitutionalism within state-society relations. These arguments will be discussed as part of my conceptual/theoretical framework of institutionalism, but I do not consider them the central issues. They do not help me achieve my primary objective, which is to gain a deeper understanding of the underlying causes.

Other questions that can be asked concern the violence itself.

- **What role did symbolic, invisible, visible and structural state-violence play? Was the violence spontaneous or premeditated?**

In the article, “Invisible Violence in Kenya: A case study of Rift Valley and Western Regions,” Nyawalo investigate the role of symbolic violence in Kenya’s post-election violence (Nyawalo et.al, 2011, p.6). This question led them to explore new areas of analysis, which in turn enabled them to uncover violent structures within the Kenyan socio-political system. Mainstream literature on electoral violence focuses on the relationship between violence and its visibility, or violence and morality, thus indirectly placing symbolic violence as a secondary category. Yet, symbolic violence adds a dimension to visible violence, without which the latter would generally not be possible. The argument they advance is that for one to understand the dynamics of visible violence – that is, the outbreak of war, riot or electoral violence – one needs to start by re-examining the invisible aspect of violence because it fuels, organizes and sustains visible violence (Nyawalo, 2011, p.20). According to mainstream writers, focusing on the visible/physical aspects of violence only serves to maintain the cycle of violence (Nyawalo, 2011, p.36). There are two types of invisible violence: structural and symbolic violence. Structural (invisible) violence is associated with state structures and other institutional practices that violate people’s social and political rights. Symbolic violence may be viewed as a form of domination wherein the dominators have shifted their power from overt coercion to symbolic manipulation. In other words, dominators are able to impose meanings on things and at the same time legitimize their power by concealing the underlying relations. One needs to emphasize the fact that as a form of domination, symbolic violence is exercised in an unrecognized manner because it is fully normalized within the socio-historical setting. It is within this context that

ethnicity in the Kenyan setting provides a framework for subtle symbolic violence (Nyawalo et.al. 2011, p.52). From the Kenyan experience, we have seen how negative forms of ethnicity easily assume a natural state of being and can therefore be ignored, even as they continue to hold together and perpetuate archaic systems and violent structures. Ethnicity, deconstructed and viewed from within the context, turned out to be a mythical invention of the British colonialists, with no parallel within the social realities on the ground.

The second aspect of symbolic violence discussed in the article is symbolic capitalism. The material manifestations of symbolic violence are connected to the enlightenment sociopolitical project of “personal improvement” or “attaining a state of civility” (Nyawalo et al. 2011 p.53). The notion of human progress and personal improvement “up the social ladder” is ingrained within the Western philosophic tradition, particularly the British tradition. For the British, the central feature of personal improvement philosophy was intricately connected to the land, because its proponents perceived that land could be consciously refashioned in a manner that would simultaneously increase its value and transfigure the human condition – the landed gentleman was the epitome of “civility” and self-worth (Nyawalo et al. 2011, p.55). The analogy of this situation to the Kenyan one is quite significant. In the nineteenth century the British came to Kenya to civilize the natives. They started off their mission by denigrating everything that was African and assigning symbolic meanings to things, especially material possessions. One’s social status and personal worth gained value by virtue of possessing these western products. The Kenyan elite were exposed to the British culture and education thus absorbing the “civilizing” ideas of acquiring land and serving the capitalist system through the production of cheap labor and consumerism of western goods (Nyawalo, 2011, p.57). These questions are important in

their own right. Because they raise issues of state structure, ethnicity and capitalism, they are addressed in chapter three.

In light of the above, my core research question is:

Why was the post-election violence in Kenya's 2007 general election so sudden and generalized? What were the underlying causes?

1.4 Literature Review and Hypothesis

1.4.1 Electoral Violence Defined

Elections are the mechanisms by which public questions are resolved and public contests are determined. An electoral process is an alternative to violence as a means of achieving governance (Murunga, 2010, p.8). When an electoral process is perceived as unfair, unresponsive, or corrupt, its political legitimacy is compromised and stakeholders are motivated to go outside of the established norms to achieve their objectives. Electoral conflict and violence become tactics in political competition. In the context of this study, I will be focusing on electoral violence as a category of political violence. Understanding the concept and criteria of electoral violence helps to differentiate it from general political violence. Therefore, it is imperative that I define electoral violence prior to discussing my hypothesis.

In his book, Comparing Apples and Mangoes: The Overpoliticized State in Developing Countries, S.N. Sangmpam provides a clear definition of electoral violence as any act involving actual or threatened physical coercion. Such acts may occur at different stages of the electoral process: before, during or after elections. Additionally, he argues that such acts are committed by those who seek to make their position prevail and to express their disagreement over the outcome of the competition by intimidating or silencing the opposition. "Among its manifestations are violent disruptions of elections through burning or other forms of violence, organized armed

confrontations, kidnappings, death, and, as a corollary in many cases, military surveillance of elections” (Sangmpam, 2007, p.46). Other scholars who seek to explain election-related violence have summed it as:

“Any spontaneous or organized act by candidates, party supporters, election authorities, voters, or any other actor/stakeholders that occurs during an electoral process, from the date of voter registration to the date of inauguration of a new government, that uses physical harm, intimidation, blackmail, verbal abuse, violent demonstrations, psychological manipulation, or other coercive tactics aimed at exploiting, disrupting, determining, hastening, delaying, reversing, or otherwise influencing an electoral process and its outcome.” (Fischer, 2002, p.15)

As defined, electoral violence in Kenya can be explained through the lenses of three conceptual frameworks. I briefly review them before discussing my hypothesis.

1.4.2 Conceptual Framework

Democratization and institutionalism:

There are various types of democracy. In this research I will focus on liberal democracy. Howard Handleman defines democracy as “a political system in which most of the country’s leading government officials are elected; there is nearly universal suffrage; elections are largely free of fraud or manipulation, frequent, and competitive; opposition party candidates have a real chance of being elected to important national offices; and minority rights as well as general civic liberties are respected, including free speech and free press” (Handleman, 2013, p.24). Godwin Murunga asserts that these prerequisites are necessary for democracy to be realized within the institutional guarantees. The more a country approximates these institutional guarantees, the more democratic it is. Liberal democracy emphasizes a separation of powers into different

branches of government, the rule of law in everyday life as part of an open society, and the equal protection of human rights, civil rights, civil liberties, accountability and political freedoms for all persons (Mutua, 2008, p.12).

Liberal democracy focuses on the individual whose claims are ultimately placed above those of the group. It replaces the government by the people with government based on the consent of the people. Instead of sovereignty of the people it offers the sovereignty of “law” and operates by repudiating the very idea of popular power (Murunga, 2007, p.38).

The democratization of Africa gathered momentum in the 1990s and has continued to date. Many factors have been suggested for this new wave. The end of the cold war and the collapse of communism in Eastern Europe in late 1989. This produced extensive scholarship on democratization and capitalism giving pre-eminence to western institutions. Different theoretical frameworks have been used to explain the liberal democratic state in the West and the variant state in the non-West. These frameworks can be broadly categorized as institutional explanations and non-institutional explanations. Proponents of universalism assume that western-like institutions as practiced in liberal democratic states ought to be applied or rather emulated in non-western countries. By assuming their evolution toward Western-like institutions, Third World countries were seen as experiencing similar “growing pains” of the West during its earlier development (Sangmpam, 2007, p.64). Samuel Huntington (1968, p.32), for example, argued that, contrary to what modernization theory proclaims, the modernization process will not always result in political stability in other countries as it did in the West. He writes, “throughout Asia, Africa, and Latin America there was a decline in political order... Not political development but political decay dominated the scene” (Huntington, 1968, p.34). Thus, modernization in these countries brought about political instability, military coups d’état, and other acts of violence.

This discrepancy between the West and non-West, according to Huntington, is due to the lack of institutionalized institutions in non-Western countries.

Another factor that contributed to the success of democratization in the second phase was the transition of the Organization of African Unity (OAU) to the African Union (AU) in 2002 (Adebayo, 2012, p.11). One of the criticisms of the defunct Organization of African Unity was its insistence on the non-intervention in domestic affairs of member states. AU altered the interpretation of the non-intervention principle through the Constitutive Act providing that “governments which shall come to power though unconstitutional means shall not be allowed to participate in the activities of the union.” (Adebayo, 2012, p.71) Such continental pressures have helped to fecundate the ground for democratization in the continent.

Huntington described global democratization as coming in three waves, the first beginning in the early 19th century and the third being the current one. Developing countries have played a significant role in the world’s most sweeping transition from authoritarianism to democracy or semi-democracy. However, for a country to become democratic it must undergo three logical phases (1) Destruction of the non-democratic regime-authoritarian; (2) Inauguration of democratic institutions, that is, democratic transition is usually associated with the conduct of credible elections; and (3) Cultural and social consolidation of the democratic regime. This is evidenced by the entrenchment of a democratic ethos (Handleman, 2013, p.24). Only when democratic institutions, practices have become entrenched in society can we say that a country has experienced democratic consolidation (Handleman, 2013, p. 25). Unfortunately, not all transitions to democracy are subsequently consolidated. For example the African continent has experienced many countries reverting to dictatorship or merely becoming mired in political disorder.

Most democratization scholars agree that real democracy requires not only free and fair elections or proper governance but also fair and just government policy/outcomes. Proper governance or free and fair elections are seen as the procedures while equal access school and health care by all citizens is seen as policy outcomes or rather substantive democracy. In his book, Kenya's Quest for Democracy: Taming Leviathan (2008), Makau Mutua asserts that African states suffer from a deficit of democracy because most government's focus on the procedures such as free fair election while policy outcomes like healthcare or education are ignored or devalued (Mutua, 2012, p.10). Drawing from Kenya's struggle for democracy he emphasizes the need for the fundamental reconstruction of the state beyond the traditional panacea of holding multiparty elections or strengthening legislature to ensure the betterment of the social and economic conditions. Social and economic injustices threaten democratic consolidation. Because without improved social conditions democratic governments may be unable to continue commanding the support of the masses.

In conclusion, on the basis of the literature on democratization and institutionalism one may argue that political violence may occur when there is lack or weakness of institutions; or, it may occur because of failure in socio-economic fairness as suggested by Makau Mutua. Election-related violence threatens the development and consolidation of democracy. In countries where violence is a regular feature of the democratic process, democratic values and institutions are prevented from developing because power is gained and retained through violence. Where a government is perceived to have come to power through irregularities as happened in Kenya, its legitimacy is then questionable, and it will likely have problems. Imperial constitution failed to entrench democratization.

Ethnicity:

The definition of ethnicity is varied and complex. Ethnicity is sometimes equated with tribe. Handleman defines ethnic identity as “a social construction – a way that certain groups have come to view themselves as distinct from others over time – rather than an inherent or primordial characteristic” (Handleman, 2013, p.78). It can also be seen as “A group of people united by a common error about their ancestry and a common dislike of their neighbors” (Handleman, 2013, p.79). The primary factor that distinguishes one ethnic group from other groups is the symbolism they employ. Ethnic groups uphold cultural symbolism, expressing their cohesiveness. The symbolism is characterized by one or more of the following: “collective myths of origin; the assertion of ties of kinship or blood, be they real or putative; a mythology expressive of the cultural uniqueness or superiority of the group; and a conscious elaboration of language and heritage” (Bates, 1983, p.153). In addition, ethnic groups differ from other social groups in their composition; they include persons from every stage of life and every socio-economic level. The third distinction is that each group be it ethnic or class requires definitional and analytical tools that use an empirical base to support the evidence on the ground. In other words, the distinctions ought to be contextually rooted.

The issue of ethnicity needs to be addressed in this research mainly because numerous reports and literature on election-related violence have mentioned it as a fundamental cause of electoral violence. It also needs to be addressed because the issue of marginalization from political power can be analyzed using ethnic-politicization as well as ethnic-class analysis. Yet, many scholars deny ethnicity either because it does not cohere with their theoretical or

ideological positions, or because it is not measurable. There is a long-standing debate and a growing body of literature on the existence of ethnic consciousness, the distinction between the terms, ethnicity or “tribe” and the implication of the terms for the African situation (Sangmpam, Opening Old Wounds –forthcoming). Ethnic affiliations may be soft or fluid in different societies, and they can change over time. They are not always “given” or primordial as suggested by certain schools of thought. For example, in certain cases the techniques of exploitation of nature, history, religion and spatial organization determine ethnic identity. Political factors are equally as important in the process of ethnic identification, as economic ones. The fluidity, heterogeneity, and complexity of processes of identity and group formation fuels this debate (Englebert & Dunn, 2013, p.66).

It is important to note that ethnic groups need not be tribes. The term “tribe” is associated with rural communities or groups that are governed through traditional political structures, to which the people have an obligation. On the other hand, ethnic groups need not be based on traditional political institutions; rather, many are based upon newly created organizations, forged in a competitive environment of modern nation-states (Bates, 1983, p.152). The ties that bind the members of the ethnic groups are not necessarily limited to traditional political institutions, but rather cemented on material interests. However, ethnic groups may expand into the rural sector and gain the backing of tribes (Bates, 1983, p.153).

It was not until after the Second World War that critics strongly challenged the concept of “tribe”, pointing out its underlying racist implications. By mid 1960s, “tribe” was gradually replaced by the use of the term “ethnic group” or ethnicity, which underlines the importance of self-organization and self-definition. Nevertheless, many critics have continued to note that “ethnicity” is simply an avatar of “tribe”, given the fact that even here one is still required to

make abstraction of the fluid nature of identities found within the African settings (Doz, 1998). The ethnographic procedures still require that an ethnic group be defined by its specific observable features, distinct from all others, to enable the construction of an accepted area of study.

Proponents of the term “tribe” have argued that tribe and tribalism are part of the African civilization that differentiates it from Western civilization. Therefore, the term tribe and tribalism are almost exclusive to the African context given that it supersedes anything that foreign civilizations may have brought including religion (see Sangmpam: *Opening Old Wounds*). Furthermore, the artificial boundaries set by the colonialists during the scramble for Africa confined various groups and communities in definite regions. This in turn created the notion that each community should forge tribal unity in order to amass material wealth, political power, and eventually overcome their rivals, that is, neighboring communities and the colonizers themselves (Berman, 2010, p. 18).

Proponents of ethnicity, on the other hand, argue that “tribe” is not exclusive to SSA. On the contrary, various nation-states around the globe have experienced similar “ethnic conflicts”. For example, in the United States during the 19th-20th centuries political parties fostered ethnic identities, such as Jewish-American, Irish-American or Italian-American. Drawing from this line of argument, ethnicity and ethnic conflicts are not exclusive to Sub-Saharan Africa; hence, the term “ethnicity” should replace the Eurocentric notion of “tribe”.

According to Robert Bates, ethnic competition endures as a feature of politics even in the most modern of nation states. The author repudiates the notion that ethnic competition belongs to the pre-modern era; that it is an irrational form of behavior or false consciousness. In his conclusion, he establishes that ethnic groups’ represent, in essence, coalitions which have been

formed as part of rational efforts to secure benefits created by the forces of modernization – benefits which are desired but scarce (Bates, 1983, p. 152)

Within the vast body of literature on ethnicity, there are two main schools of thought. The first school of thought believes that pre-colonial societies of Africa had complex political and administrative structure that sustained the community in its relations both internally and externally. Lineage constituted the backbone of social relations in these societies (Sangmpam, 1995, p.616). The clan was the highest lineage unit within all these societies. People were able to trace their patrilineal or matrilineal unilateral descent “from a common ancestor and included both living members and the dead” (Sangmpam, 1995, p.617). Each of the lineage units was led by a lineage head, which was determined through seniority or in some cases achieved through breakaway, heroism, or choice of a dying lineage head. The leader performed various functions including that of referee, legal representative, youth educator, marriage counselor, migration judge, ambassador to other lineage groups, and guarantor of the group’s property. This proves the intricate social dynamic of pre-colonial societies in Sub-Saharan Africa prior to the advent of the colonial state and culture. It also shows the pre-existing passage from kinship-centered organization to a wider framework for social identifications such as ethnic allegiance. Therefore, Africa was not a tabula rasa as suggested in Eurocentric scholarship.

The second school of thought is drawn from a post-colonial perspective. As such, this literature dwells on the origin and significance of ethnic groups in relation to the state. According to this perspective, the concept of “tribe” or “ethnic groupings” did not exist among the African communities before the colonial era, but was invented by the colonizers. The advocates of the post-colonial perspective argue that imperial powers inculcated the ideas of “tribe” and tribalism into the African mindset in order to facilitate the debilitating state of hegemony for the colonial

administration (Nyawalo et al. 2011, p.67). This argument is consistent with instrumentalism, which stems from cultural pluralism. Proponents of the theory argue that the doctrine of indirect rule paved the way for ethnic consciousness and cultural relativism, and, therefore, hampered the cultural convergence or cultural synthesis of African societies. African societies entered selectively into the consciousness of the European colonizer: some were thought to belong to “higher civilization” based on their physical features that stemmed from their ethnic groupings, some were considered to be of higher social class either through dynasty or level of education, some were considered more industrious and reliable, others as inherently lazy, dumb and repulsive (Bates, 1983, p.150). This form of divide and rule tactic was largely successful in most Anglophone African states given that it exacerbated ethnic tensions while allowing the colonialists to manipulate the state machinery. By favoring some ethnic groups over others, it fostered ethnic rivalry as well as ethnic alliances amongst culturally close ethnic groups. Cultural preconceptions and personal idiosyncrasy were closely intertwined with one’s “tribe” or ethnic grouping (Green, 2006, p.15).

Ethnicity (symbol of identity) and materialism (comprising symbols of social status) were used by colonizers to dominate and exploit natives. Therefore, just as the divisive politics of negative ethnicity made it easy for the colonialists to achieve the aim of exploiting the colony to serve the capitalistic interest of their home country, after independence, the same system mutated itself and had the African elite take over, to continue the use of ethnicity as a means of maintaining the hegemonic and exploitative status quo (Nyawalo et. al. 2011, p.72).

In conclusion, the perception of ethnicity as representing the core political identity of subnational communities offers a theoretical explanation for the post-election violence in Kenya. Ethnic politicization and particularly ethnic voting may have contributed to the post-election

violence because the intensity behind the winner-takes-all zero-sum game was deliberately channeled into ethnic differences. Politicians used their respectable position in society to coerce their ethnic and co-ethnic groups to vote ethnically so as to prove their loyalty and cement their unity against “rival” ethnic groups. This ideology of competition for state resources through ethnic commonalities became a weapon of mass destruction (Rutten & Owuor, 2010, p.47). Ethnic groups turn against each other in the race to political power –winning the presidential seat. From a theoretical point of view, this form of competition with an ethnic dimension may spark widespread violence simply because all ethnic groups want to belong to the winning, as opposed to the losing, political party. Similarly, dominant ethnic groups are not ready to be governed by their rivals simply out of superiority and inferiority complex. Block-voting or ethnic voting can be found mainly among larger ethnic groups with their own presidential candidate at the expense of marginal groups. Smaller ethnic groups are less uniform in their voting behavior (Kagwanja, 2010, p.57). The motivations which may drive ethnic voting include strong group attachments, fear of domination, and prejudice against outsiders, and favoritism. In the long run, these emotions may have the potential for erupting into violence as marginalized ethnic groups may seek to vent their bottled-up frustrations.

Class Analysis

Similar to the idea of ethnic groups, the notion of class is another social category. Given the broad range of literature on class and class relations, this discussion will focus on the Marxian perspective of class analysis. According to Karl Marx, classes are socio-economic groups articulated around their relations to the means of production (capital, labor, and land), with the dominant classes changing as the modes of production change (e.g., capitalism, communism and feudalism) (Englebert & Dunn, 2013, p. 109). Class relations involve the

exploitation that production relations generate. Class exploitation can only occur when one class appropriates a part of the surplus product that is produced by another class. The dominant class controls the conditions under which the exploited class works. The exploiting class does this using four aspects (1) by controlling the means of production; (2) by determining what portion of the production goes where and for what purpose; (3) by lowering or raising at their will the portion of the product allocated to the producers/exploited class; (4) lastly, the exploited class is given no way of withdrawing from the exploiting class, except under capitalism (Sangmpam, 1995, p.626).

My decision to apply Marxist analysis to Kenya's PEV stems from the realization that material production and its attendant social relationships are essential to understanding the political relations within a given society. Most societies cannot be defined outside its material production; and the Kenyan society is not an exception to this rule. An understanding of electoral violence in Kenya requires one to pay attention to class in addition to ethnicity as a potential contributor to the violence. Prior to opening a discourse on class relations in colonial and post-colonial Kenya, it is imperative that I discuss in brief the pre-colonial period. There are two main reasons for this. First and foremost, the pre-colonial mode of production set the stage for how "class" and "class relations" would be perceived in both colonial and post-colonial periods. Secondly and most importantly, understanding the existing social relations in pre-colonial Kenya enabled African scholars to explain why class and ethnicity intersected in post-colonial politics.

The dominant mode of production in pre-colonial Africa was the lineage mode of production. In this analysis the term lineage is used to refer to descent –a real or fictitious common ancestor. In almost every village in Africa, the senior lineage was a representative of the ancestors; he/she was granted high marks of deference, and in some instances, given tribute

by their subjects (Sangmpam, 1995, p.618). The overall process of production took place under the guidance of the senior lineage. The role of the ancestors was crucial in the production process as well as the elaborate rituals performed by the lineage elders at the opening of each farming season. The production forces ranged from hunting, fishing, gathering, agriculture, animal husbandry, handicraft and manufacturing ironwork which includes spears, machetes, bracelets etc. Therefore, it is clear that the social relations of production in pre-colonial Africa were dominated by the lineage system. The head of the lineage indirectly controlled the labor process and trust fund. Despite his/her power in extending or withholding blessings, it is noteworthy that individual ownership of private property (land, machinery, labor) as described by John Locke and Thomas Hobbes did not apply to Africa. Instead instruments of labor were shared among lineage members. The goods put in trust with the lineage head were eventually redistributed among the members of the lineage without creating any sentiments of marginalization or grievances. (Sangmpam, 1995, p.613; 617; 618; 620)

Unfounded class arguments have been proposed by Eurocentric scholars that suggest the existence of class relations in pre-capitalist economies of Africa. In what follows, I will outline some of these arguments and subsequently refute the claim that class relation prevailed. The first argument provided by Thornton (1983) asserts that class relations existed through the exploitation of enslaved people by their owners. This argument is debatable since enslaved people were not necessarily an object of class. They controlled their own labor process; they contributed towards the lineage organization as opposed to the empowerment of a single individual. Enslaved people became absorbed into the lineage system rather than remaining marginalized and oppressed in the periphery. Despite being captives of war, they were not turned into an exploited class.

The second argument claims that the relationship between nobles and commoners in southern African communities was an example of class relations and exploitation (Vansina, 1978). This claim has no basis given that both nobles and commoners were engaged in the same type of economic production. Moreover, becoming part of the noble class was not based on class exploitation; instead it was determined by belonging to the chief's lineage system. Therefore, class relation in pre-colonial Africa was based on ascriptive oriented membership rather than achievement-oriented (Sangmpam, 1995, p.623). However, most western anthropologists view class relations as non-birth-ascribed (Bienen, 1983, p.104). While it is true that such features as income, education, and occupation identify one's class status, in the generic sense, it does not reflect the Marxian definition. The African situation was a prime example of lineage system dominating class relations. Similarly, the king versus commoners and the age grade system do not depict class exploitation and domination. In both scenarios, it is the lineage system that determined who became king and when one was promoted to the next age group. The heavy involvement of the matrilineages or patrilineages in the selection and support for the King proves that political power was based on lineage (Sangmpam, 1995, p.620)

With the arrival of the colonialists, the existing mode of production was transformed into capitalism and class-based exploitation. In the pre-colonial economy of Kenya social groups did not depend on the sale of their labor power to gain access to social products. Social products were communally shared until the advent of the colonial state introduced a capitalist mode of production. Under colonial rule, workers depended on a wage income to settle their annual taxes and meet the costs of a particular social commitment, such as marriage (Mamdani, 1976, p.150). The indigenous people were seen as a source of capital through their cheap labor, which in turn would support the high demand for goods and materials in the western hemisphere. Capitalist

production consists of two main classes –the bourgeoisie, the capitalists who own the means of production, and the much larger proletariat or “working class” who must sell their own labor to maintain a position in society. Proponents of Marxism suggest that class is formed through one’s relation to the means of production. However, because of the lack of industrialization and the limited spread of industrial capitalism in various parts of Africa, class relations could not be defined only through “production” or exploitation (Markovitz, 1977, p.148).

The colonial state created an economy that was based on economic dependency and capitalism. In the first phase of colonial capitalism, all labor was reduced to the lowest common denominator, that of unskilled labor producing raw materials on the land. (Mamdani, 1976, p.143) The main purpose of the colonial state was to produce commodities for the metropolitan market. These commodities were unprocessed raw materials, which in turn required further processing to generate a finished product. While the metropolitan state developed its technical skills in the manufacturing industry, the colonial state was reduced to a mere agricultural economy. As a result, colonial states depended on the metropolitan state for their imported goods. This led to the destruction of political autonomy and the material base of the pre-colonial ruling groups. Besides undermining the indigenous mode of production it also created entire new classes. The class that the colonial state created was the working class/the wage laborers, peasantry, petite bourgeoisie, landed/landless class (Englebert & Dunn, 2013, p.115). One way for the colonial state to acquire laborers was through forced labor and later through the cash-crop production and eventually requirement of cash taxes. The productive activity of the communities living in present-day Kenya was redirected from the traditional mode of production into the production of cash crop farming such as cotton, coffee, tea.

At the political level, the state unites the ruling class(es) and divides the working class(es). Therefore, the ruling class controls the state apparatus and institutions while the working class remains confined to the level of production. The state institutionalizes politics, not just uniting the ruling classes but seeking to contain the contradictions of class society and thereby maintaining its unity. Ideally the state represents itself as a state of all classes or a state above all classes, in essence a guardian of the general interest of society. However, the ruling class presents its own sectional interest in the guise of the general interest (Mamdani, 1976, p.13).

For Richard Sklar (1979), class relations in Africa were not simply about capitalists versus workers, but more importantly the role of the state in generating and consolidating the various classes (Englebert & Dunn, 2013, p.118). The colonial state created classes through its capitalist economic base; the state in post-colonial Africa became even more involve in socio-economic affairs. As a result, class formation in Africa could not be discussed without highlighting the role of the state. According to Sklar, the most dominant form of class action in Africa is class formation through the state. By this he meant that although class struggles exist, they are not always visible. In addition, power is not necessarily acquired from the economic sphere. Instead those who control the various and diverse social organizations – that is, those who have political power – can determine how classes are formed and how resources are distributed. Following independence, the new Kenyan elites who assumed control, entrenched themselves in the economy by taking over the former settler farms and the major agricultural institutions. They also consolidated their hold on political power through constitutional amendments that stifled opposition political parties and centralized power in the executive. Party leaders were rewarded with positions in government and access to the settler farms in the White

Highlands. Clientelism flourished and emerged as the main means of cementing class relations between elites.

In present day Africa, class relations are still determined by relations of power rather than economic production. Whereas power stemmed from the lineage system in pre-capitalist Africa, today class and status are derived from the state. Gaining access to the state is therefore how one gains access to resources. In this context, political corruption becomes the primary means of accumulating wealth. Seemingly, alliances between the ruling elite and traditional rulers exemplify class collaboration/ class formation as opposed to “economic” class struggle. In order to consolidate power, the “modernized” ruling elites ally themselves with traditional rulers who carry a lot of local power and legitimacy (Englebert & Dunn, 2013, p.111). The end result is cultivation of clientelism as elites distribute state resources and political power to traditional elite. In post-independence Africa, political power and national resources were distributed both vertically and horizontally from the state to local elites through cronyism, clientelism as opposed to merit-based recognition. This theory implies that class is an ongoing fluid process of contestation rather than a fixed or static category. Markovitz (1977, p.213) states “class models must certainly be modified by factors of cultural values and communal concern”. For instance, one’s obligation towards his/her lineage and members of the extended family –a consequence of pre-colonial lineage social relations –may prevent them from forming a rigid class barrier. Appeals to ethnic or tribal loyalties can be another device that the political elites employ to strengthen their rule. This situation helps reinforce the strong link between class and ethnicity in Kenya and Africa at large.

In conclusion, applying the concept of class to explain the 2007 election violence is useful because it provides a new perspective on how capitalism institutionalized violence. If

certain portions of the population, be they individuals or groups, are seen to profit from government and others are not, violence can be seen as a means to right economic wrongs and tip the balance. In the face of an undesirable election outcome, the election is seen as having failed to reverse economic imbalances and violence becomes a viable alternative. Therefore, access to the State is in fact vital, since it is the State which controls the circulation and monetization of the bulk of the surplus product (Kitching, 1982, p.454). While access to the surplus product both in production and circulation defines the position of the richest Africans in Kenya, the total absence of such access defines the poorest. The richest in Kenya are those who both employ and benefit from the labor that produces a significant proportion of the surplus product, and who receive a disproportionate share of the product when it is monetized and circulated (Kitching, 1982, p.398). Whilst the poorest are those whose labor produces little or no surplus product, i.e. most of their labor time is expended in the pursuit of a basic subsistence; they also receive little monetized surplus product when it is circulated through the State and private capital. Over the years, such inequalities in production and circulation of state resources have contributed to class antagonism and resentment among the various classes and ethnic groups. This has been worsened by the fact that Kenyans with access to capital live alongside those who only have access to the most basic means of subsistence.

Drawing on Marxist tendencies of the populism of the 1960s and '70s, "the forty one tribes against one" rhetoric invented a class notion from an ethnic group –kikuyu. Kikuyus holding positions of power in banking, government, trade, etcetera, were viewed as dominating class -allegedly resulting from political patronage of Jomo Kenyatta's regime. Historically, Kenya's ruling class has managed to cement its position as petite bourgeoisie. The high levels of

economic inequality and poor economic prospects in case of soaring youth unemployment has increased the risk for the occurrence of PEV (Republic of Kenya; Waki Report, p.58).

1.5 Research Hypothesis

In light of the above theoretical frameworks, my main hypothesis is as follows.

In the event of electoral fraud, the higher the social marginalization of those excluded from political power and national resources, the more likely electoral violence will erupt and will be generalized. In Kenya, social marginalization is the by-product of ethnic and class polarization.

My hypothesis assumes that social marginalization existed at the time of the 2007 post-election violence. Although the scarcity of the country's resources in terms of geographical distribution may contribute to the marginalization of some portions of the population, I assume that marginalization has been mostly linked to two important factors: ethnic politicization and class division. In the case of Kenya, scholars such as Colin Leys (1975) and Akanamu Adebayo (2012) have reaffirmed that marginalization partly stemmed from ethnic-politicization. However this is not always the case. In some countries marginalization of communities has taken place in the absence of ethnic politicization. The marginalization is exacerbated by class divisions that can be traced to colonial rule as certain social groups may have acquired more resources than others. The hypothesis also suggests that electoral violence was made feasible by electoral fraud. In this case, electoral fraud supplemented marginalization as an independent or causal variable. In this sense, it is imperative that I investigate the role played by institutionalism in facilitating electoral fraud.

This hypothesis does not overlook the auxiliary role played by the digital revolution. The “digital revolution” across the country helped to fuel the post-election protest. I will discuss how the use of sophisticated forms of communication, such as smartphones, social networking via Facebook and twitter, and media coverage on television as well as online may have created the space for resentment among the marginalized groups and the distrust of the electoral system.

1.6 Methods

This research is a single country case-study involving Kenya’s 2007 post-election violence. Like most single country case studies, it attempts to provide an overview of Kenya’s political history particularly in general elections. The historical events that have marked its political landscape reflect deep-lying violent structures that have been left unchecked for very long. For this reason, historiography is an essential methodological guideline for my research. During my externship, I visited the Kenya National Archive, where I found a collection of records of Kenya’s precolonial and colonial history. These historical records have broadened my understanding of the root causes of marginalization. An extension of these archival materials, which were once confidential, is now available at Syracuse University Library. The Archives only served to broaden my basic understanding of Kenya’s post-colonial history in terms of post-colonial political, economic and social marginalization. However, it is not my primary source of knowledge hence, I do not rely on the Archives to support my findings. It only served as a foundation to widen my knowledge about Kenya.

The reports funded and documented by local and International inquiry of commissions into post-election violence have also formed part of the primary database. I have identified the

Ndungu land commission report, the Kofi Annan National dialogue and reconciliation report, the truth, justice and reconciliation report, the Kriegler report and the Waki report as primary sources of information that document the historical injustices committed in Kenya by political and non-political actors. Apart from information they have placed on their online database, researchers can also access the hardcopy documents in their headquarter offices in Nairobi. Therefore, it was absolutely necessary to conduct this research in Kenya, where I was able to access documented reports generated by local inquiry commissions and international election monitoring agencies.

Historiography as a qualitative methodological tool is appropriate for my research because I am seeking to determine whether there is continuity or a change from the past. The electoral fraud of 2007 is arguably a result of events at past critical junctures. The transfer of power from colonial rule to Kenya's first political party (KANU) is an example of one such critical juncture, because certain ethnic groups were favored to take leadership roles and educational opportunities, while the majority of "other" ethnic groups remained on the periphery. Secondly, the land question as a matrix for state and class formation also presents itself as critical juncture. This is because the land policies have been used to marginalize social groups throughout Kenya's colonial and post-colonial history. Due to political and economic structures, the divisions within these ethnic-groups remained entrenched despite the passage of time. Positive feedback in path dependence means that history is remembered; small events early on may have consequences on larger events at a later stage.

Besides historiography, this research also incorporates elements of empirical evidence and ethnographic fieldwork. The range of qualitative methods has allowed me to become more "objective" and open-minded to include different sources of information from popular culture, social media (Facebook/Tweeter) to academic blogs such as Pambazuka. I also spoke to

numerous commentators on PEV, political analysts, Kenyan professors and political activists. For secondary information I focused on literary analysis such as online journals, articles, books, political statements, newspapers and political cartoons/images. In selecting my secondary sources, I was guided by core research question, and particularly my research hypothesis. Most of the materials or sources I used, were meant to verify my hypothesis or help me answer my over-all research question. Therefore, the secondary sources were not chosen based on gender or any other orientation. It was simply guided by my research hypothesis.

Although, I understand the critical role played by various social groups in the struggle for democracy and nation building; I did not use this to guide my secondary sources. My literature review was compiled using sources and materials and discussed by research hypothesis in depth. Indeed Kenyan women, trade unions, workers, students all contributed to the broad literature in Kenya and particularly the overall state-building. However, my sources were selected based on how to answer my research question.

Finally, I sent a questionnaire to a selected group of people who were well informed about the 2007 violence. Their responses have been analyzed and incorporated into various chapters of my study, particularly chapter five where I discuss Marginalization and Electoral violence.

1.7 Chapter Outline

The thesis has five chapters. Chapter two consists of a Literature Review of the theoretical frameworks that inform my over-all analysis. I summarize the theoretical debate on democratization and institutionalism, ethnicity and class relations, the three variables that are paramount in my study.

Chapter three analyzes the intersection of land tenure, class formation, and ethnic relations as a historical background to understand social marginalization in Kenya. I relate my argument to the historical realities of pre-colonial, colonial and post-colonial Kenya. The chapter sets the stage for the substantive empirical analysis of marginalization and electoral violence in Kenya's 2007 post-election violence.

In Chapter four, I test empirically my hypothesis and discuss the research question in detail.

Using my three main variables of marginalization, I present my empirical findings to verify the research hypothesis. I argue that the politics of exclusion and marginalization along ethnic and class lines were responsible for the 2007 electoral violence, once electoral fraud was suspected.

The third variable, democratization and institutionalism, played a "lesser" role in what transpired.

Chapter five is my conclusion. I provide a short discussion on my findings and propose possible recommendations to avert electoral violence in the Pan-African world in light of the Kenyan crisis. I emphasize the building of regional and continental institutions as pillars for security, prosperity and collective identity for Africans.

CHAPTER 2: LITERATURE REVIEW AND THEORETICAL FRAMEWORKS

My aim in this chapter is to discuss the three theoretical frameworks that help me answer the core research question of the thesis. They are democratization and institutionalism; ethnicity and class relations.

2.1 Democratization and Institutionalism

From its inception, there has been only one definition of ‘democracy’, namely, rule by the ‘demos’, that is, the people (Mafeje, 1995, p.5). Arguably, the French revolution of 1789 marks the first modern definition of democracy. Since then, three concepts of democracy have been featured in European theoretical and political discourse. These are liberal democracy, social democracy and socialist democracy. For my purpose in this study, I will be focusing on liberal democracy. This is because liberal democracy transcends the simplistic understanding of democracy as “government by the people” to refer to government formed based on the consent of the people. It is not just about the sovereignty of the people but it also covers the sovereignty of “law” and operates by repudiating the idea of popular power (Murunga, 2007, p.29). In short the government is not above the law, but also subject to scrutiny. Liberal democracy is by far the oldest, best-studied and most well-advertised form of democracy. Its ideals such as the freedom

of speech, freedom of association, freedom of press, rule of law and respect for individual rights are still unexceptionable (Mafeje, 1995, p.7). Liberal democracy is also the type of democracy that was imposed on democratizing countries by neoliberalism in post-Soviet period.

Theoretically and practically, liberal democracy reached its climax in the nineteenth century, having presaged the rise of the second estate and the liberation of the third estate from serfdom in the eighteenth century (Eshtu C & Ibrahim J, 1995, p.8). Liberal democracy championed itself as protector of individual rights, suffrage, and rule of law. However, it was under the ethos of democracy that “enlightened” Europe reserved the right to subjugated and degraded the working class. Studies by Engels and Beatrice Webb demonstrated the negative aspect of liberal democracy by referring to the working conditions of workers in nineteenth-century England. Such critique was aimed at undermining the social and theoretical foundations of liberal democracy by revealing class exploitation and domination. However, as a pan-Africanist, what strikes me most is not only class domination in the production process in Europe, but the fact that proponents of liberal democracy used racial discrimination to carry out their agenda of exploitation. It was under the ethos of liberal democracy that European colonizers partitioned Africa for economic reasons.

The anti-colonial struggle throughout Africa, Latin America and parts of Asia were historical antecedents, which had been made by people themselves through popular struggles. Unfortunately, after independence, African states sought to reproduce the same democratic models that had been imposed on them by the European colonizers. Adopting such models seemed natural to African states since they saw themselves as an extension of the metropolitan countries (Mafeje, 1995, p.6). However, these abstract models did not have substantive content.

The democratization of Africa gathered momentum in the 1990s with the end of the cold war and the collapse of communism in Eastern Europe in late 1989. This produced extensive scholarship on democratization and capitalism, giving pre-eminence to western institutions. Different theoretical frameworks have been used to explain the liberal democratic state in the West and the state variant in the non-West. These frameworks can be broadly categorized as institutional explanations and non-institutional explanations. Proponents of universalism assume that western-like institutions of the liberal democratic state ought to be emulated by non-western countries. By assuming their evolution toward Western-like institutions, Third world countries are seen as experiencing “growing pains” similar to those of the West during its earlier development (Sangmpam, 2007, p.64).

Like Sangmpam, Makau Mutua disagrees. He argues that in societies such as Africa democracy cannot be merely a matter of institutions, procedures, and rules (Mutua, 2012, p.11). Democracy is not a method of governance but a critical proxy for the legitimization of the state. Democratic rule must be viewed as substantive. This means that procedures and rules must have “just” and legitimate outcomes for the people. Otherwise it is likely to fail. For Mutua, the right to vote and to stand for elections are merely procedural and thus, meaningless. What is more important is that political conditions are open, fair and supportive for people to participate (Mutua, 2008, p.15). Therefore, democracy cannot simply be a method of governance; it must pay particular attention to the outcomes. In his book, Kenya’s Quest for Democracy: Taming Leviathan (2012 p.18), Makau Mutua criticizes the definitions of “democracy” by J.Shumpter and Samuel Huntington. He argues that their definition are predominantly procedural and thus not fit for the African case. Instead he proposes two thematic categories that is, *democratization*

and *civil society*. These outcomes must revolve around the viability and legitimacy of the African state.

Democratization is the only category on which there is universal agreement among scholars of African politics. The subject appears in a variety of guises and terminologies, including governance, electoral politics, and political participation among others. In a nutshell, the process of democratization occurs when a state moves from a less democratic stage to a more democratic political regime. In the process of transitioning, states can be at different stages. For example, it may be a transition from an authoritarian regime to a full democracy, from an authoritarian regime to a semi-democracy, or from semi-authoritarian political regime to a democratic regime. The outcome may be consolidated democracy, but in the case of Africa, many states face frequent reversals due to coup d'états and political instability (Mutua, 2012, p.18).

According to Mutua (2012, p.18), the reason African post-colonial states failed to establish enduring democracies is because liberal constitutions were imposed by departing colonial hegemony from London, Paris and other metropolitan cities, which allowed the colonial state to reassert itself, thus questioning the legitimacy of the African state. Kenya was among the African countries that had their constitutional framework and independence negotiated in the Lancaster House Conference, London. Rhodesia (present day Zimbabwe) was another. The constitution included entrenched provisions for citizenship, fundamental rights, and the composition of the bicameral legislature. In this sense, states are supposed to achieve political democracy under constitutionalism (Mutua, 2012, p.13). This is because constitutionalism holds the cultural norms and values that are core to popular sovereignty. The constitution makes the state accountable through checks and balances and the separation of the three arms of the state:

an independent judiciary, the executive branch and the legislature. In the case of Africa, the executive branch overpowers the other two arms, which in turn leads to a tyrannical rule. For many years, many African countries were governed by authoritarian rule. The judiciary was unable to safeguard the individual rights, or to impose the rule of law that was not in accordance with the executive branch. Democracy was merely a matter of procedure, elections existed but they were not free and fair.

Another key theme is the centrality of civil society in the reconstruction and democratization of the state. According to Mutua, civil society¹ is an indispensable element in the push for democratization. Political transition must seek to understand the structure, philosophy, role, composition, size and depth of civil society if they aim to establish an enduring democracy. Patrick Chabal (1986) defines civil society as “a vast ensemble of constantly changing groups and individuals whose only common ground is their being outside the state and who have...acquired some consciousness of their externality and opposition of the state” (Beissinger & Young, 2002, p.244). Patrick Chabal; Crawford Young; Antonio Gramsci and Karl Marx have all underscored the capacity of the civil society to undermine tyranny of the state. South Africa and Kenya are among the countries in Africa with a strong civil society. In the case of Nigeria, civil society has not always been preeminent. The military rule have in the past suppressed democratization in spite of the presence of a vibrant civil society and independent media (Mutua, 2012, p.19). Kenya is an example of country that has been able to attain transformative reform of the state through a vigilant and strong civil society. Civil society has been a key factor in almost every critical juncture of the country (see Firoze Manji-

¹ He defines it as a collection of associated bodies that recognize the State as a monopoly of power

² Dependency theory, World system theory and Modernization theory.

³ GEMA- Gikuyu, Embu, Meru and Akamba ethnic groups.

⁴ Primordial attachment

⁵ The Goldenberg Scandal, is the longest running case of massive high level corruption in Kenyan history. Kamleshhi

interview). Many gains in civil and political liberties throughout Moi's repressive regime have been possible thanks to a disciplined and vigilant civil society, made up of religious organizations, human rights group, the media and professional associations, who worked closely with opposition political parties and foreign political observers. The cases of Benin, South Africa and Kenya indicate the positive role the church and other religious institutions can play in transition to a more open society. In Kenya for example, both Conference of Catholic Bishops and the National Council of Churches of Kenya, the umbrella organization for the mainline Protestant congregations, played a leading role in the struggle for democracy against Kenyatta's undemocratic state that was later perfected by Moi (Mutua, 2008, p.24). Their voices were instrumental in achieving multipartysim and drafting of a new democratic constitution.

Other scholars have criticized the 'positive role' of religion in the reform process. Athena Mutua (2006), describes how religion retarded advocacy of women's right, in the Kenyan constitution, by using 'moral ethics' to impose rigid understandings of reproductive rights such as abortion (Makau, p.19, 2011). Religious groups tend to be less liberal when it comes to matters of gender equality, family law. This is because of the patriarchal nature of religious doctrine.

Last but not least, citizenship is another important facet of consolidating democratization process. This is because, popular sovereignty without which constitutionalism would not exist, makes citizens the owners of the state (Mutua, 2012, p.21). Citizenship gives the state legitimacy. In what follows I will provide alternative arguments for understanding electoral violence within the parameters of democratization.

The first argument is that new democracies with legacies of ethno-political discrimination are more likely to experience pre-and post-electoral violence than new democracies without

ethno-political discrimination. If electoral violence is a strategy to subvert the democratic process, or a response to the oppositions' attempt to subvert the democratic process, then one also needs to identify the conditions under which political actors are more likely to violate the democratic rules. Group inequalities that stem from ethnic marginalization, class division or religious affiliations can increase the stakes of the electoral contest, and this in turn increases the incentives for both incumbents and challengers to subvert the rules. Nigeria as a state, has failed to devise a system of government where all ethnic and religious groups are adequately provided for (Mutua, 2012, p.13). The interest of the state, has often clashed with the demands of the people. Long (2012) argues that the presence of underlying ethno-political discrimination in a new democratic state may or may not increase the likelihood of electoral violence. The potential for electoral violence to occur depends on how the political actors perceive their chance of winning. A candidate with a very low chance of winning the election is less likely to subvert the election process, given that his/her chance of winning are minimal even if he/she attempted to do so. The same is true for candidates with a very high chance of winning. They have few incentives to attempt to rig, simply because they already anticipate victory without using fraud. Rigging would only tarnish their reputation and reduce the credibility of their victory and rule. In principle, new democracies with legacies of marginalization are more likely to experience pre- and post-election violence.

Did institutions play a role in Kenya's electoral violence? I will attempt to answer this question in relation to my hypothesis by revisiting some of the literature discussed here. According to Mutua (2012), democratization may lead to further marginalization of smaller ethnic groups since multiparty democracy promotes competition of political parties. In most African cases, political parties are dominated by specific ethnic groups. Often larger ethnic

groups have the production force to erect political parties that represents their needs on a nation level. On the other hand, smaller ethnic groups have less chance of vying for the country's top leadership because of their limited means. Political candidates pull most of their support from their ethnic kin. For this reason, electable candidates usually come from the largest ethnic groups representing the constituency or area. Because of this, dominant ethnic groups are able to compete more intensely for democratic seats than smaller ethnic groups. Given the high stakes involved in winning the elections (the perception that the gaining political power will guarantee access to state resources and enable ethnic group a chance 'eat' their labor), electoral defeat becomes a huge loss for the ethnic group (Wrong, 2009). As such, the losing side views democracy and the process of democratization as the enemy. This situation is likely to lead to electoral fraud and violence.

According to Adam Przeworski (1991), however, the trick is to erect democratic institutional frameworks such as electoral rules that seek to regulate and manage elections in such a manner as to provide procedural certainty to all stakeholders (political actors, voter's etcetera). Stakeholders of the election are only concerned with the credibility of the process. if electoral bodies can guarantee them a free and fair process, and can also reassure that "today's looser can compete in tomorrow's election", then electoral violence is less likely to occur. However, when institutions are not perceived as trustworthy or able to convince losing candidates that they can compete for power in the future, then there is a high chance that electoral violence will occur. For Przeworski, democracy entails clear rules and procedures, albeit the outcomes are uncertain.

2.2 Ethnicity

Ethnicity is one of the most difficult concepts to grasp, and one of the most essential in understanding Africa. The challenge, therefore, is not how to overcome ethnic identities, but how to integrate them into social relationships and political processes (Copan, 2007, p.78). The process of building democratic institutions will succeed with appropriating ethnic identities into the structure of nation-state. Recent scholarship has claimed that any political organization based on ethnic identity is a primitive model (Lynch, 2011, p.14). Such approaches implicitly suggest that if Africa wants to make progress, it must first of all eradicate ethnicity. Because of such influence, African leaders have conceptualized ethnicity as an atavistic residue that impedes political integration and potential of attaining nationhood. Much emphasis has been placed on the process of urbanization as a way combat this “epidemic”. However, as a pan-African scholar, I believe that the solution is not to deny the existence and persistence of ethnicity; in fact, ethnic identities provide meaning and content to the nation-state. If appropriated properly, ethnic identities could be ingredients required for the realization of an ideal civil society, political integration, participation and common good. Historically, ethnocentrism has revealed itself in the form of resistance against the oppressive structure of nation state. African states, however, have failed to modify ethnic identification in favor of a national identity. More often than not, African leaders have resorted to ethnic-politicization for political gain. In the process, they undermine the diversity of ethnic identities, thus paving the way for political instability. Ethnocentrism is not to be seen as a primordial communal sentiment that obstructs the state. In my analysis, ethnicity is viewed as a fluid and highly malleable concept.

Scholars have been trying to develop a theoretical approach to ethnicity and ethnic conflict for a long time. Some, like Donald Horowitz (1985), Edward Azar (1990) and Donald Rothchild (1983) agree that the ethnic conflicts experienced today, especially in Africa, are

deeply rooted. This is true in the Kenyan situation. These identity conflicts have become so complex that they are difficult to resolve or manage. For this reason, scholars have opted to construct analytical tools in the form of ethnic theories to explain the relationship between ethnicity, politics and resources. Cultural pluralism served as a framework for analysis and explanation of the various forms of ethnic identity globally, including Sub-Saharan Africa, thanks to its universalistic claims. It also draws its analysis from three main approaches: primordialism, instrumentalism and constructivism. Each of these approaches can be analyzed using the Kenyan ethnic context. By and large, all three approaches can be presented in a sequence that moves from viewing it as a deep-rooted fixed characteristic to thinking about it as a fluid and changing cultural resource that people, and particularly political elites, can appeal to in some instances. These theories should therefore be perceived as “ideal-types” or theoretically pure conceptions of the world that may in the end explain how ethnic-politicization contributed to animosity and marginalization of certain groups from political power.

The question of ethnicity and its role in Kenya’s post-election violence is central to my study in various ways. First and foremost, my research hypothesis, theorizes ethnicity and ethnic-politicization as an explanatory variable of “marginalization”. Secondly, ethnicity needs to be addressed because numerous reports, such as the Waki, Ndungu and Kriegler reports, have established ethnicity as a fundamental contributor of electoral violence. Thirdly, scholarship by African and non-African scholars have related election related violence to the persistence and saliency of ethnic identity and ethnic allegiance (Hornsby 2012; Lynch 2012; Wrong 2009). Even though ethnic-politicization offers a theoretical explanation for the post-election violence in Kenya, I will not ignore the standing debate and the growing literature that repudiates ethnicity as a probable explanation. Opponents of ethnicity have not only cited the inability to

measure ethnicity, but both liberals and Marxists have seen ethnicity as a distracting irrelevance from the real issues of production, exchange and communication (Hornsby, 2012, p.804).

Ethnic identity is essentially a contested concept. Just as with democracy or art, the term has been disputed endlessly with regard to its proper usage and its scope (Lynch, 2011, p.12). Analysts have also debated whether ethnicity is the result of human choice it is an end in itself or means to accomplish other ends (Hyden, 2005, p.185). Despite the term's inherent ambiguity, significant agreement exists among scholars of social science. Robert Bates provides a comprehensive and compelling argument on ethnicity in his piece, "Modernization, Ethnic Competition, and the Rationality of Politics in Contemporary Africa" (Bates, 1983, p.151). For Bates, the primary factor that distinguishes ethnic groups from other social groups is the symbolism which they employ. The symbolism is characterized by one or more of the following: "collective myths of origin; the assertion of ties of kinship or blood, be they real or putative; a mythology expressive of the cultural uniqueness or superiority of the group; and a conscious elaboration of language and heritage" (Bates, 1983, p.153). Ethnic groups have a distinct composition rooted in the notion of cultural peoplehood, wherein persons of every age and stage of life –be it their status, wealth are linked through a conjoining of cultural similarity and perception of common descent (Lynch, 2011, p.12).

Although the term 'ethnicity' is often employed in many commentaries on ethnic relations it is rarely defined. Acquiring a working understanding of African politics thus demands a deeper conceptualization of ethnicity, ethnic identity, and ethnic collective action. According to Rothchild & Olorunsola (1983, p.152) an ethnic group can be defined as a community of people who share cultural and linguistic characteristics including historical, traditional and mythological origin. Ethnic groups are not isolated. In fact ethnic groups become

aware of their existence by being in contact with others. It is this interaction among various ethnic groups within a given space that gives rise to notion of ‘ethnicity’.

Other scholars have used the term ‘ethnicity’ to refer to ‘a kind of group identification; a sense of belonging to a people that is experienced as a greatly extended form of kinship’ (Kenyan Section of the International Commission of Jurists, 2008, p.79). Eriksen (2002 p.12) explains ethnicity as:

“...is an aspect of social relationship between agents who consider themselves as culturally distinctive from members of other groups with whom they have a minimum of regular interaction...thus also...defined as a social identity”

The underlying factor in the various definitions provided above is a sense of belonging. Unfortunately, due to its popularity, ethnicity has become an unwieldy concept and currently suffers from both polysemy (whereby it has multiple definitions) and synonymy (close meanings with other terms like “nation” and “race”) (Green, 2006, p. 17). In my analysis, however, I intend to use the term ethnicity within the boundaries of three core elements, namely common descent, a common history and a common homeland. This is because race and other non-ethnic nations focus on physical or socio-political similarities which are not relevant to my analysis and overall topic. Using the trajectory of common descent, history, and homeland will allow me to apply the two main ethnic interpretations specifically primordialism and instrumentalism. I will also refer to constructivism in order to understand how ethnicity may or may not have contributed to the historical marginalization and arguably the electoral violence of 2007.

Within the vast body of literature on ethnicity, there are two main schools of thought: primordialism and instrumentalism (Elischer, 2008, p.4). They relate the most to my work. These theories have gained significant currency within the literature of electoral-related violence and

ethnicity. According to the first school of thought, primordialism, ethnicity is a natural or “God given” attribute that has existed since time immemorial. For its proponents, tribal allegiance is based on “blood ties, attendant emotional bonds, and the historical memory of other opposition groups (See Sangmpam: Opening Old Wounds p. 13). In understanding the underlying cause of election-related violence, primordialists are quick to play the ethnic-card as a probable cause because they believe that ethnic animosities and allegiance are deep-rooted, traditional, irreducible and non-negotiable part of human identity (Englebert & Dunn, 2013, p.68).

Primordialism provides the central assumptions of many people’s understanding of group origins and differences, and it is implicit in the arguments of most nationalist, ethnic, and racial leaders. Often, primordialists revisit the intricate social dynamic of pre-colonial African societies through lineage the mode of production to re-affirm Africa’s glorious past. They rely on the fact that African societies had a complex political and administrative structure that sustained the community relations both internally and externally. People traced their patrilineal or matrilineal unilateral decent from a common ancestor to include both living members and the dead (Sangmpam, 1995, p. 617). They reiterate that Africa was not *tabula rasa* or a clean slate as some Eurocentric scholars have implied.

However, instrumentalism, the second school of thought, does not deal with the complex socio-political structures in pre-colonial Africa. Instead it blames colonialism and post-colonialism for the existence and saliency of ethnicity. In Politics and Class Formation in Uganda, Mahmood Mamdani challenges the central assumptions of primordialism. Even though Mamdani acknowledges ‘tribe’ and ‘tribalism’ are potent political issues in Africa, he does not concur with the primordial argument that ethnic conflicts are natural and expected. For him conflict is not necessarily explained by tribalism. He questioned the tautological explanation for

conflict in most Eurocentric scholarship, that is; “two tribes fight because they are from different tribes” (Mamdani, 1976, p.3). Tribalism was not an explanation but an ideology that needed to be explained. To understand any ideology one must first understand its historical origin and development, and then identify its social base. As such, one may ask whose interest does the ideology of tribalism articulate. Instrumentalism attempts to answer this question.

Instrumentalism dwells on the origin and significance of ethnic groups in relation to the state. According to instrumentalism, the concept of ‘tribe’ and ‘tribalism’ did not exist among African societies before colonial era, but was a product of colonial state structures. The theory retraces the instrumental role of colonialism in the establishment of “tribe” and “tribal reserves”. The central argument in this theory is that Europeans deliberately invented the idea of tribe so as to legitimize their rule. In his article, “The Ideology of Tribalism,” *Journal of Modern African Studies* (1971), Archie Mafeje takes an instrumentalist point of view. Mafeje does not deny the existence of “tribal ideology and sentiment in Africa” (Mafeje, 1971, p.258). Using a Marxist perspective, Mafeje argues that “tribalism” needs to be understood and conceptualized under a new light, that is, within the modern parameter of capitalist mode of production. Essentially, he differentiates between “the man who, on behalf of his tribe, strives to maintain its traditional integrity and autonomy, and the man who invokes tribal ideology in order to maintain a power position, not in the tribal area, but in the modern capital city, and whose ultimate aim is to undermine and exploit the supposed tribesmen” (Mafeje, 1971, p.259) For him, colonialism provided the material as well as the ideological base of what is now called ‘tribalism’. The fact that it works in various African countries, is no proof that ‘tribes’ or ‘tribalism’ exist in an objective sense. The fact that it works marks a false consciousness on the part of supposed tribesmen and simply reveals the exploitative nature of the new African elite as they distorted the

notion of 'tribe' to conceal their exploitative role. In essence, tribalism is a distraction of the real issue which is class identity and the role of capitalism.

The question that follows this argument is, why do the masses accept and internalize such ideologies if they are constructed by colonial and post-colonial state elites? Mafeje provides a short but powerful response to support his argument. According to him the ideas of the ruling class are also the ruling ideas. In other words, the new elites have power over the material force of society (means of production) as well as the ruling intellectual force (the means of mental production). Therefore, the masses have no option but to follow because they lack the means of mental production (ibid, p.259). To a large extent, some scholars find this argument as tautological, incoherent and possibly offensive to the mental production of African people.

Charles Hornsby (2012), asserts that ethnicity is real and enduring political phenomenon not just the consequence of structural precedent but also an independent social force and analytical factor in its own right. In his book, Kenya: A History since Independence, Hornsby discusses ethnicity from a conceptual point of view as well as interweaving empirical data to analyze ethnicity both a cause and consequence of politics. According to the author, 'tribalism' or negative ethnicity is not an intrinsic phenomenon or something unique to Kenyan or African situation (Hornsby, 2012, p.793) Instead it is a dominant feature of political debate evident in other parts of the globe including Latin America, Asia, Middle East and even Europe. He gives the example of European Union, a supra-national body with the same faults and strengths of post-colonial African states (Hornby, 2012, p.798). A point worth noting in Hornsby's argument is that ethnicity has endured because it is a natural point on which society can compete. Competition for resources is inevitable since politics is intrinsically a contest of national resources and political power. At times, this competition takes the form of ethnic battle. Robert Bates (1983) observes that

ethnicities “persist largely because of their capacity to extract goods and services from modern sector and thereby satisfy the demands of their members. Insofar as they provide these benefits to their members they are able to gain their support and achieve their loyalty” (Bates, 1983, p.152). According to Horwitz (1985) ‘ethnicity in the words of a cynic entails not the collective will to exist but rather the existing will to collect’ (p.12). This means that ethnic groups are intrinsically bound to exist and collaborate as part of their ‘existing will to collect’ resources. This description connotes a sense of ethnic identity to the exclusion of others. However, it also illuminates the potential for negative ethnicity.

In her book, I Say to You: Ethnic Politics and the Kalenjin in Kenya by Gabriella Lynch (2011), discusses the theoretical and methodological importance of understanding the process of ethnic politicization. In her analysis, common descent, common history and common homeland are reflected by the geographic, linguistic and cultural connections of African societies in Kenya. However, just as common language, cultural practices, and home area are used to assert ethnic “sameness”, she also notes that there are distinct dialects, customs, and divergent histories of migration that re-affirms ethnic differences. For Lynch, ethnic identity can only exist if the similarities in cultural materials become relevant or salient and are attended by a sense of a shared past or myth of collective ancestry and associated conception of rights and social justices (Lynch, 2009, p.14). What is significant from her work is that ethnic bonds require first a sense of linguistic and cultural similarity; second, an assumed history of union; and third and most importantly some debate about what is “right” or “just” with regards to inter- and intracommunal relations and group rights (Lynch, 2009, p.13). These shared rights do not have to be historically accurate, but they cannot be invented from thin air. Instead, they must be built on cultural experience (Berman 1998, p.312). A shared past does not have to produce a conceptually

consistent or collectively endorsed moral frames, yet there must be an assumed connection between the peoples past, their current position and their future potential. Essentially, what Lynch is arguing here is that ethnic identity or ethnicity is socially constructed, a “set of descent-based cultural identifiers” (R. Cohen 1978, p.387). Such constructed communities tend to struggle not because they exist but simply because they have come into existence out of a process of “struggle”. Many of the ethnic communities found in present day Kenya are real examples of such struggle. She provides the example of Kalenjin community as a recent social construction. The term Kalenjin was first used as an ethnic signifier in the 1940s by a Nandi radio presenter to open vernacular broadcast. Kalenjin essentially means “I say to you”. The important point here is that the Kalenjin identity was not a product of European “invention” as some scholars suggest. Rather, it was constructed by Africans themselves so as to unite Nandi speakers who were classified as a separate “tribes” by colonialists. In short, uniting people under the banner of Kalenjin was a form of resistance against colonial authorities, missionaries and anthropologist (Lynch, 2009, p.36)

Constructed or negotiated over time, ethnic groups are situational (Mitchell, 1956) and relational (C.Young 1965). Fredrick Barth (1969) also places ethnic boundaries at the center of the discursive framework. Throughout his book, Ethnic Groups and Boundaries: The social organization of culture difference, Barth focuses on the interconnectedness of ethnic identities and interdependence of ethnic groups. Because ethnic boundaries are not clear-cut, as suggested by constructivists, there seems to be a heated debate about who is considered part of the group. The interesting aspect of Barth work is that ethnic groups continue to debate over what it means to be “us”, yet there seems to be little confusion when it comes to conceptualizing “others” or “them”. Conceptions of “them” are often more readily defined –as ‘enemies’. Because they

conceptualize notions of what it means to be “them”, ethnic groups are reminded of who they are and what differentiates them versus ‘others’ (Ignatieff, 1994, p.14).

Even though ethnic identities are often a recent construct, never fixed and unchanging, they seem to enjoy a seemingly natural or primordial appeal that depends upon assumed communalities and differences of history and culture. The main difference between constructivism and primordialism is that constructivism is more of a pluralist and less of an elite theory. Constructivists argue that a complex process, usually referred to as social construction, creates identities. Societies collectively “construct” identities as a wide array of actors continually discuss the question of who “we” are (Berman, 2010, p.30) Hence, ethnic identity is not permanent, but rather fluid and highly malleable concept. As a result, groups appear and disappear, change their names, adapt their cultures, fight over who is or is not a real member of the group, and address a myriad of demands to public institutions and other ethnic groups (Berman 2010, p.25). Primordialists suggest that ethnicity is a long-term, pre-colonial, fixed level of identity. From this perspective, people were Zulu, Hutu, or Kikuyu even before they become South African, Rwandan, or Kenyan (Englebert & Dunn, p. 65). Naturally, this viewpoint fails to recognize the intricate intersections between the various social identities –race, ethnicity, language, class, religion. Alternatively, one can think of social identity including ethnicity as a more flexible process of contestation; which people can use, or not, depending on their circumstance at the time. Therefore, using the ethnic card may appear politically relevant at one point or place, and not in another depending on the agenda of the individual or social group.

My study, “*Marginalization and Democracy: Kenya’s 2007 Post Election Violence*” draws on the concept of ethnicity as outlined by Nelson Kasfir, which is an extension of Lynch (2011) and Barth (1969) work. For Kasfir, ethnicity contains objective characteristics associated

with common ancestry, these include but not restricted to language, territory, cultural practices and the like. These are perceived by both insiders and outsiders as important indicators of identity, so that they can become the basis for mobilizing social solidarity and which in certain situations result in political activity. (Kasfir, 2008, p. 77)

Not only does Kasfir's argument propose a fluid concept of ethnicity, but also he emphasizes the nexus between politics and ethnicity. This is central to my study of electoral violence because it shows that political actors have the leeway to involve ethnic considerations in their various situations. His conception of ethnicity allows for specification when applying to different political scenarios (Elischer, 2008, p.8). It is thus possible that ethnic identity could have played a significant role in Kenya's post-election violence in 2007. Banon et al. (2004, p.13) concluded that the political salience of ethnicity is heavily dependent on the intensity of the political competition and as well as the larger national context.

All in all, scholars of African politics including (Kagwanja, 2010); (Rothchild & Olorunsola, 1983); (Mutua, 2012); (Mamdani 1976); (Kitching 1982); (Lynch, 2012); (Hornsby, 2012); (Englebert & Dunn, 2013); and (Wrong, 2009) amongst many others, have argued that ethnic groups might be the most important political category or actor in Africa; and that ethnic identity might be the most important driver of individual political behavior. Those who disagree will still recognize the importance of ethnicity, but more as a consequence than as a cause of other features of African politics.

The initial notion of "tribal Africa" was an invention of the colonial mind. While the process of cataloging, demarcating, and administering Africans as members of supposedly

bounded “tribes” reinforced a sense of ethnic consciousness. The fact that the provincial administration became the key interface linking the state and society, also provided many Africans with reason to invest in their relationships with “ethnic leader”. Essentially ethnicity became a mode of distributing state largesse and as the principle instrument of state control – Coming together as an ethnic group was seen as a way to access centralized resources and of avoiding state excess (Lynch, 2011, p.17) and for men in particular it was a way to assert control over local contexts in a moment of rapid social change (Lynch, 2011, p.18). Colonial officials encouraged this tendency and often supported ethnic claims and offered them period public forums. Therefore colonial experience encouraged Africans to think and act ethnically in three main facets: first, the categorization and administration of Africans as “tribemen” as part of colonial divide and rule tactic, the work and role of anthropologists and missionaries reinforced this arrangement. Secondly, the growth of real and perceived economic social inequalities along regional and ethnic lines encouraged the sense of backward and advanced communities, which exacerbated the negative competition and lack of national cohesiveness. Thirdly, the association of discrete ethnic groups with the ownership and control of geographic areas promoted communal claims of land rights and political representation. Prior to the advent of colonialism, African societies in pre-colonial Africa perceived themselves as flexible entities. Home guards or “collaborators” often offered much of the information that was used to delineate Africans into “tribes”. Primordialism was never a constant. These social constructions have been sustained by the new African elites, regarded as betrayers of nation-building (Berman, 2010, p.22)

With regard to African agencies, analysts such as Terence Ranger have argued that “tribal Africa” was invented by the colonialists for personal gain. Whatever the case, the important

point to note is that ethnicity offers a theoretical explanation for the post –election violence. The social inequalities created by the colonizers and later by the Africans have not only caused ethnic animosities, but they have also encouraged Africans to compete for national resources and political power. Such competition in the event of perceived electoral violence may culminate into widespread violence. In order to address the problem we have to find ways of forming inclusive structures of the common good, wealth distribution, and political consensus. There will be no lasting peace unless "the country addresses the fundamental inequalities that turned neighbor against neighbor and ethnic group against ethnic group.

2.3 Class Analysis

This section will be organized in four parts. First, I will define the concept of class. Second, I will discuss the major differences between Western views of class and non-Western and African views on class relations. I will show how the concept of class has been modified and applied to third world countries, particularly Africa. Thirdly, I will analyze how class formation in Africa paved the way for class struggle. The intersection between class and ethnicity proves to be vital in understanding the nexus between class formation and class struggle. Fourth, to conclude, I will provide a brief discussion of Kenya's class system and its utility for my thesis. Class analysis has traditionally been a powerful mode of understanding social systems and politics. Even though Karl Marx is often credited with advancing class analysis, other scholars, including Aristotle, have been recognized as the first political theorists to analyze political phenomena in terms of class interests (Grundy, 1964, p.379).

Others scholars of class analysis are Alexander Hamilton, James Madison, Henry George, Thorstein Veblen, Gaetano Mosca and Max Weber. However, it is Marx and Engels who more

than anyone else before them represented politics as the specific articulation of class struggle. In recent history, scholarship on class analysis has significantly declined among western thinkers and writers. Part of the reason is that class analysis has been stigmatized, as a programme used by Marxist-Leninist to challenge the capitalist socialist order in the West. Class analysis became synonymous with revolution. In rejecting the prognosis of revolution, some Western thinkers have repudiated class as a tool of empirical analysis. Yet, class analysis has continued to gain significant currency in theory. The material production and its attendant social relationships are essential to deconstructing the political, socio-economic relations of the society. In fact, most societies cannot be defined outside material production; and the Kenyan situation is not an exception to this rule. For this reason, I believe the relevance and utility of class analysis is crucial to understanding African political affairs and more importantly political violence, as the case of 2007 elections. Given the broad literature on class and class relations, this discussion will focus on the Marxian perspective of class analysis. This is because Marx delineated the interplay between class formation, class struggle, and their relations to the state and on social change. The spirit, if not the substance of Marx's theory, proves worthy to be developed in my study.

Generally speaking, Marxists have identified five modes of production: the ancient, slave, feudal, capitalist and communist (Wolff, 2013, p.10). Each is distinguished by its unique mode of organizing the production, appropriation, and distribution of the surplus (Wolff, 2013, p.13). According to Wolff, capitalist, feudal, and slave models of production share something in common. Each of these modes of production, is based on the exploitation of those who produce the surplus (workers) by those who own the means of production and are able to appropriate and distribute the surplus. Whether it is through persuasion or coercion, the owners of the means of

production are able to appropriate and further widen the gap between themselves and the workers.

According to Englebert and Dunn (2013, p.109) classes are socio-economic groups defined based on relationship to the means of production (capital, labor, and land), with the dominant classes changing as the modes of production change. Central to the class characteristic in Marx analysis is the relationship of exploitation. Classes are those groups in society which either exploit or are being exploited by other groups. A further implication of this theory is that classes in themselves are of little interest, what is important is the relationship between the *exploiter* vs the *exploited*. Marx is, if anything a theorist of class relations, not a theorist of classes. (Kitching, 1982, p.442).

In Marxism and African Liberation, Walter Rodney (1975) presents a detailed synopsis of Marx's theory. He states that "Marxist thought starts from a perspective of man's relationship to the material world; and that Marxism, when it arose historically, consciously disassociated itself from....all other modes of perception which started with ideas, with concepts and with words; and rooted itself in the material conditions and in the social relations in society".

This definition takes into account the following categories: (1) those who perform the necessary and surplus labor; (2) those who appropriate the surplus and distribute it; and (3) those who receive these distributed shares of surplus. De Ste. Croix provides a more detailed conceptualization of class. According to him, class is a group of persons in a community identified by their position in the whole system of production (p.44). As a social group, classes are also defined according to the conditions of production and to other classes. This class relationship is based on the collective social expression of exploitation, which is embodied in the social structure. By exploitation De Ste Croix meant the appropriation of part of the product of

the labor of others. In order for exploitation to take place, it must not merely be a relatively small number of people appropriating the surplus product which others produced, but the exploiting class must control the conditions under which another class can produce.

According to Miliband (1977), class identity is a fluid concept, just as ethnicity. He states that members of one class may not feel any form of antagonism towards members of other classes. There may be mobility between classes; however, classes in themselves remain irreconcilably divided, whether conflict occurs or not (Miliband, 1977, p. 27). In Marxist perspective, domination and conflict are inherent in class societies, and are based on specific, concrete features of their mode of production. They are rooted in the process of extraction and appropriation of what is produced by human labor. Given that conflicts are inherent in a class system and thus difficult to solve, eruptions, outbursts, revolts and revolutions become the most visible manifestations of a permanent alienation of the less dominant class. There is no escape from such outbursts, unless there is a total transformation of the mode of production. Class domination has many different and related facets (political, economic, and cultural) and the struggle against this domination is equally varied and complex. Class struggle assumes many different forms of expression and different levels of intensity and scope (Zeilig, 2009, p.27). The immediate localized form of “normal” struggle occurs at an economic level where wage earners upraise against their employers through strike action. Or it may be fought at a cultural level wherein a permanent struggle for the communication of alternative and contradictory ideas, values and perspectives are offered. Or it may be fought on a political level such that the existing political arrangements are restructured. And it may of course assume peaceful or violent forms.

In the Communist Manifesto by Marx and Engels, the capitalist society is reduced to two classes: bourgeoisie and the proletariat (Miliband, 1977, p.22). Because of economic

considerations, these two opposing classes become a reflection of the fundamental contradiction of capitalism, the contradiction between capital and labor. Throughout Europe's history, these two classes have confronted each other from different angles, from freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman to bourgeoisie and proletariat in the epoch of capitalism. Friedrich Engels describes the bourgeoisie as follows: "By bourgeoisie is to be understood the class of modern capitalists who own the means of social production and exploit wage-labor ". The basic economic trait of the bourgeoisie is then the ownership of means of production and the exploitation of wage-labor. It is this economic supremacy that allows the bourgeois class to gain political supremacy; it also allows the bourgeoisie as the governing class to force society to accept its own ideology as the dominant group (Mbengo, 1978, p.16). As part of its exploitative nature, the bourgeoisie seeks to develop production and technology so as to yield more. This further increases the antagonism between the capitalists and the masses, which in turn leads to exploited masses to become aware of their common interest and forge organizations that will enable them to carry out a revolution. The concentration of decisive wealth in the hands of a few minority, who monopolize and privatize the social product, leads to the overthrow of capitalist production relations and the victory of the socialist revolution, in which the working class plays an important role (Mbengo, 1978, p.17).

Engels describes the working class in the Communist Manifesto as a class of modern wage earning workers, who are compelled to sell their labor force because they do not have their own means of production. The working class is, therefore, part of the collective laborer groups which produces surplus value from the position of sub-ordination. It is at the lower end of the income scale. The working class is further divided into different strata: industrial wage earners, factory workers, and the 'modern proletariat' (Miliband, 1977, p.25). The term working class is

often used interchangeably with the term proletariat. Because the working class is always seeking to organize itself, and to improve its working conditions and occasionally overthrow the capitalist, it is seen as the most progressive social class.

Apart from the two principal classes, the other classes are the petty bourgeoisie and the intelligentsia. The petty bourgeoisie constitute of a fairly small group who live on the proceeds of their own work (and that of their family) and own their means of production (Mbengo, 1978, p.20). Their economic position empowers them to gain both political and ideological advantage. The petty bourgeoisie constantly seeks to preserve its wealth, and to consolidate and increase it so as to gain security from it. The petty bourgeoisie includes medium and small businessmen, shopkeepers, self-employed, craftsmen, artisans, and small and median farmers. What differentiates the working class from the petty bourgeoisie is that the former earn wages, but the latter use their own productive forces or some paid labor to survive. Another social category is the large and growing army of state employees who are engaged in administration and in police and military functions. State employees are neither part of the working class nor the petty bourgeoisie. Lastly, the intelligentsia of capitalist society plays an important role in the production process. In economic terms, the intelligentsia functions within the division of labor. It is separated from physical work in society and conditioned to undertake higher education in contributing to the production process (Mbengo, 1978, p.21).

What are the major differences between class in the West and class in Africa? According to Miliband, the Marxist view and application of class struggle in the West is different from how developing countries perceive classes and class struggle. While African Marxists have often analyzed the intersection between class and other kinds of social conflicts such as ethnicity, nationality and religion, Eurocentric Marxists primarily focus on class and class struggle as a

product of economic development only. For Western Marxists, conflicts based on ethnicity, religion, and nationality are not seen as directly or indirectly derived from, or related to, class conflicts (Miliband, 1977, p.19). They do however, recognize that they exist within society but do not discuss the intersection of these forms of conflict and class conflicts. Moreover, classic Marxist theory focuses on the struggle between two main classes: the bourgeoisie on the capitalists, who own the means of production, and the much larger proletariat or ‘working class’, who must sell their labor to maintain a position in society.

In Africa, class struggle is not restricted to bourgeois and proletariat class antagonism, rather more classes are considered. They all contribute to the struggle within the boundaries of the state. Richard Sklar (1979) concurred with this argument, stating that “African classes coalesce around the state rather than the means of production, and that class struggles are not dominant mode of class action on the continent.” (Englebert & Dunn, 2013, p.111).

Class analysis is an important analytical tool in Africa and elsewhere, provided one does not apply it with undue dogmatism. The vast majority of Marx’s work concerns capitalist society. He sought to understand and critique this form of class structure. In the case of Africa, it is unlikely to revolve around a conventional capitalist mode of production and to follow a pattern of class struggle as delineated by Marx. In Africa, it is clear that class is perceived differently than class in advanced capitalist societies. As a result, class relations and class conflict assume different forms other than those encountered in capitalist societies. This is because Africa has a unique history and trajectory of development compared to other parts of the world. For example, colonialism and external capitalist domination impacted its economic, social and political structures. The bourgeois theory represented in Western Marxism has to be adapted and applied to the reality of “underdevelopment” in Africa.

Under imperialism, capitalism expands and develops on a world scale, subordinating pre-capitalist modes of production and associated social formations to its demands. In understanding the historical process of global capitalist political economy, it is important to distinguish between the classic form of capitalism that developed in Western Europe and the forms of capitalism which imperialism imposed on underdeveloped periphery of the world economy (Seddon, 2009, p.57). In Africa, the forms of capitalism that exist today are the outcome of a long and distinctive historical process. In what follows, I will consider the actual history of capitalist development and class formation and the popular struggles that took place in Africa with the advent of colonial rule.

The African case is illuminating with regard to the colonial imposition of the capitalist system. It is clear that capitalism was a new concept to Africans, and it soon proved to be the most powerful mode of production, as it restructured the entire pre-colonial mode of production in a matter of three to four decades of colonial rule. However, this does not mean that the existing mode of production was weak. On the contrary, some scholars have discussed Africa's pre-colonial mode of production. Kwame Nkrumah (1970), Wamba-dia-Wamba (1976), Amilcar Cabral, and Walter Rodney (1975) have presented arguments with regards to Africa's pre-colonial history. The main question they raise is: did classes exist in pre-colonial Africa? And if so, was there a class struggle? To understand and describe the nature of relations of production, one must revisit the ancient social forms.

In his article, "Sociology of Primitive Societies, Evolutionism, and Africa" S.N. Sangmpam attempts to answer this question using a Marxist Hegemonic theory developed by Antonio Gramsci. Sangmpam argues that Marxist theories fail to ask whether hegemony exists in the non-West. He writes that "Hegemony exists in most societies, although it manifests itself in

different forms; in some places it is manifested through class relations, in others through other non-class relations, including lineage relations” (Sangmpam, 1995, p.623). As the dominant mode of production in pre-colonial Africa, the lineage system is an example of a non-class hegemonic structure. Though physical coercion was not used, Sangmpam argues that ideological coercion was used by the leaders as a means of extraction. Ideological coercion refers to control by using rituals and myths to form “an imaginary relationship between individuals or subjects (s) and a “bigger subject”. This ideological coercion thus “regulated the relations of ownership, the extraction of surplus product, the relationship between rulers and the ruled, competing individual or group interests, and the distribution of resources.” Therefore, hegemony and ideological coercion was used in pre-colonial Africa as a means for the rulers to control the population because these were not class societies.

In almost every village in Africa, the senior lineage was accorded high marks of deference. (Lineage in this discussion refers to descent –a real or fictious common ancestor). The head of the lineage indirectly controlled the labor process and the fund. The head of the lineage was responsible for the over-all process of production. Everyone in society –male, female, children and elders –had a place in the production process. The types of production range from hunting, fishing, gathering, agriculture, and animal husbandry. The social relations of production were dominated by the lineage system. This refutes the claim made by some Eurocentric scholars, including Thornton (1983), Vansina (1978), and Leo Zeilig (2009) that class relations dominated in pre-colonial Africa. Although production took place, class relations as experienced in advanced capitalist societies and discussed above could not exist in pre-colonial Africa. This is because all the means of the production, including land and sometimes livestock, belonged to the community. Means of production were not based on capital or

individual property. For this reason, class and class struggle could not exist in pre-colonial Africa. There was lack of exploitation. For Marxists, exploitation is a central characteristic of capitalist class. However, in the case of pre-colonial Africa everyone contributed to the production process based on their age or position in the lineage system as opposed to their capital accumulation.

This important distinction has been made by other African scholars, including Kwame Nkrumah, who argued that production relations in pre-colonial Africa were based on “communalism”. In his last publication, Class Struggle in Africa (1970, p.13), Nkrumah points out five major types of production relationships known to man, namely communalism, slavery, feudalism, capitalism and socialism. In essence, he differentiates the production in slavery from capitalism and communalism. Nkrumah connects the lineage mode of production to communalism. When land was allocated to an individual for his personal use, he was not free to do as he pleased without the knowledge and permission of the community.

With the arrival of the colonialists, the existing mode of production was transformed into capitalism and class-based exploitation. Capitalism, individualism and the tendencies toward private ownership grew (Nkrumah, 1970, p.14). Under the colonial rule workers depended on a wage income to settle their annual taxes (Mamdani, 1976, p.150). The indigenous people were seen as a source of capital through their cheap labor, which in turn would support the high demand for goods and materials in the western hemisphere. In the first phase of colonial capitalism, all labor was reduced to the lowest common denominator, that of unskilled labor producing raw materials on the land. (Mamdani, 1976, p.143). The main purpose of the colonial state was to produce commodities for the metropolitan market. The economies of the colonies became connected with world capitalist markets. This led to the destruction of political

autonomy and the material base of the pre-colonial ruling groups. There was an expansion of private farming and the method of small commodity production (Nkrumah, 1970, p.14). Besides undermining the indigenous mode of production, it also created entire new classes. The class that the colonial state created was the working class/the wage laborers, peasantry, petite bourgeois, landed/landless class.

The colonial state created an economy that was based on economic dependency and capitalism. Although Karl Marx anticipated aspects of underdevelopment theory –for instance the growth of monopoly capitalism, and relationship of advanced capitalist countries with ex-colonial states, it was dependency theorists who elaborated Marx’s interpretation to make sense of Africa’s political economy. The period following independence, Marxism as a theory and ideology dominated the debates in Asia, Africa, Latin America as well as many parts of the metropolitan world. Its omnipotence and proliferation was more profound in intellectual debates among African Nationalist leaders who sought to critique the crisis in the capitalist-imperialist mode of production (Rodney, 1975, p.1). In the first ten years of independence, even states that were not explicitly “Marxist” expressed an allegiance to socialism, and an admiration for Soviet Union (Zeilig, 2009, p.34). Such leaders included Nasser, Nkrumah, Sekou Toure, Julius Nyerere amongst others (Zeilig, 2009, p.34). Adapting the ideas of Marxism seemed optimal for these nationalist leaders because they regarded it as applicable to the African realities. Tom Mboya, for example, maintained that socialism was intrinsic to the African traditional culture.

African post-colonial scholars came with a Marxian background to investigate whether there are social classes in Africa, whether there is a class logic to African politics, and to what extent the state might be an instrument of class domination? One of the first responses to this question came from Tom Mboya, who asserted that “there is no such division into classes in

Africa” (Zeilig, 2009, p.35). The logic behind his response was that African socialism has an entirely different history compared to European socialism which focuses on the division between capitalist class and an industrial proletariat. Therefore, there was no reason for Africa to argue over the ideology or even define their actions based on doctrinaire theories (ibid, p.35).

The second response came from Nkrumah and Nyerere who also argued that classes did not exist in pre-colonial Africa. In an effort to shed light on Africa’s pre-colonial history of lineage modes of production, both leaders stressed on the importance of ‘communalism’ and Ujamaa as form of resisting western capitalist penetration. However, these philosophies faced various challenges throughout post-colonial period. The newly independent African states were facing various economic hardships, particularly the oil crisis in the late 70s and early 80s. Although the economic crisis was a global capitalist crisis, much of the pain of adjustment was borne by developing countries. Loans from the west turned into debts, and more and more African states found their options constrained and their macro-economic policies increasingly shaped by the conditions imposed by western governments, private banks and their financial institutions such as International Monetary Fund and the World Bank.

Unfortunately, the cost of economic liberalization and the austerity policies that accompanied privatization seemed to have affected the poorest and most vulnerable groups. The poor and working class, particularly, felt the pain of these policies. As wages went down, popular struggles led mostly by the working class resisted against the austerity policies through street demonstrations, marches, strikes and other forms of social movements. These popular struggles were later reinforced by their collaboration with trade union movements, labor movements and working class-action and even elements of lumpen proletariat and petty bourgeoisie.

Apart from the working class, another specific group that was negatively affected by these policies is women. Colonial administration and western missionaries' structured the sexual division of labor in a manner that placed men in senior roles in public offices, reflecting their roles as "head" of the family and bread winners. With the conditions placed by financial institutions, most African states were compelled to cut down on government expenses such as subsidizing public health and education and providing jobs to support lower income households. As a result, numerous men were left jobless which in turn forced African women to seek alternatives to generate income for household consumption. Apart from rural to urban migration, more and more women found themselves working in informal sectors for cheap labor and other manual jobs. This change in the gender roles ultimately affected the gender inter-relations in the household as well as the labor force.

African scholars such as Samir Amin (1972, 1976), Walter Rodney (1981) and John Saul (1979) et al. reviewed national development plans so as to understand the crisis of underdevelopment² in third world countries. Andre Gunder Frank (1966) first elaborated dependency theory in the context of Latin America. African scholars applied this theory to Africa's stagnation and underdevelopment. More importantly they used the theory to show how post-colonial African governments took policies that affected the existing means of production by privatizing land and by owning extractive industries and whatever little manufacturing existed. The modernized nationalist "bourgeoisie" became a "new class of elites" who continued to exploit the modes and relations of production to satisfy their own interests.

Underdevelopment theory is thus partly a correction and partly an expansion Marx's interpretation of history. Dependency theorists such as Mahmood Mamdani view the relationship

² Dependency theory, World system theory and Modernization theory.

between developed Western states and underdeveloped states as an exploitative one, wherein the growth of core capitalist states took place at the expense of peripheral post-colonial states.

Contrary to the modernization theorists, African Marxists believe that underdevelopment is not a natural condition faced by all early societies. Instead it was a deliberate and systematic construction by colonialists to control and manipulate the economies of ex-colonial states for their own interest. And the modernized nationalist “petty bourgeoisie” in Africa became a new class of elites (comprador), which helps imperialism to continue exploiting the resources of Africa while the comprador class benefits from those relations (Nyong'o, 1987, p.96).

Leonard Markovitz (1977) presented a strong argument that imperialism only changed the economic basis of power of the governing classes. According to him, African traditional societies did not disintegrate, they were only disrupted. In fact the disruption of traditional economies became the trajectory for powerful alliances between the European masters and the dominant groups. Therefore, in reality the ruling class remains the “old class” of European colonialists, who are controlling the productive forces of the countries through a number of auxiliary bureaucrats and technocrats. These bureaucrats and technocrats become the “new class”. Traditional capitalist interests persist in Africa, but in a modernized form.

After his overthrow, in February 1966, Nkrumah focused his stance on class and class struggle in Africa. He no longer denied the existence of class in Africa (Copans, 1985, p. 29). He stated that “there is a struggle, oppression and exploitation, thus classes must exist” (Nkrumah, 1970, p.25). He goes on to note that 'Some have suggested that the social classes that exist elsewhere in the world are unknown in Africa. Nothing is further from the truth. Africa today is the field of a very violent class struggle'. Walter Rodney reiterates Nkrumah's argument in his article “Aspects of International Class Struggle in Africa, the Caribbean and America”. He states

that “Nkrumah was engaging in ideological mystification under new facades such as ‘consciencism’ while doing little to break the control of international bourgeoisie or the Ghanaian petty bourgeoisie over the state. Rodney makes the point that national and pan-African movements require leadership that is loyal to the masses- the working class and the peasants.

At a political level, the state unites the ruling classes and divides the working classes. The ruling class controls the state apparatus and the institutions while the working class remains confined to the level of production. For Richard Sklar (1979), class relations in Africa were not simply about capitalists vs. workers, but more importantly the role of the state in generating and consolidating the various classes. The colonial state created classes through its capitalist economic base; the state in post-colonial Africa became even more pronounced in socio-economic affairs. As a result, class formation in Africa could not be discussed without highlighting the role of the state.

One of the major differences between class analysis in advanced capitalist societies and developing capitalist societies, such as Africa, is the lack of strong indigenous class of large scale capitalists. Given the lack of industrialization and the limited spread of industrial capitalism in various parts of Africa, class relations could not be defined only through industrial ‘production’ or exploitation. The major industrial, extractive, financial, and commercial enterprises were mainly owned and controlled by foreign interests (Miliband, 1977, p.31). As a result, in post-colonial Africa, the indigenous capitalist class was economically rooted in the medium and small-scale enterprise, and partially dependent upon the foreign interest implanted in the country. In effect, the mass of the working population is of peasant character, and the main relations of production in these countries tend to be between landlords and peasants (Miliband,

2013, p.32). As a result, the nature of class struggle in African situations tends to assume a different a different form from those encountered in advanced capitalist societies.

The state role becomes crucial. Therefore, the other major difference between Western views of class and African interpretation of class is the formation of the indigenous African bourgeoisie thanks to the use of state power. The African capitalist state was directly responsible for the emergence of an entire new class –petty bourgeois – who later became part and parcel of colonial economic and social structure (Nkrumah, 1970, p.15). The African petite bourgeoisie bear the hallmark of a fairly distinctive process of development because unlike classes in the west, this emerging class was constructed to indirectly facilitate colonial exploitation and domination even after colonial rule had ended. Ideally, the state represents itself as a state of all classes or a state above all classes –a guardian of the general interest of society. For Africa, a “veneer of Parliamentary democracy concealed a coercive state machinery” that was run by an elite of bureaucrats with practically unlimited power (ibid, p.16). The ruling class in post-colonial Africa manipulated the state machinery to consolidate their economic prosperity and extended the rewards of the state to support their immediate families, kin and loyal supporters through neo-patrimonial politics of exclusion. In other words, they presented their own sectional interest in the guise of the general interest (Mamdani, 1976, p.13).

Today, Marxist analysis in Africa seems to have taken a downward spiral. Similarly, movements have become a less prevalent and underused concept. However, I argue that the theory of classic Marxism, that is socialism from below, is still relevant in understanding social revolutions in the form of class struggle. As long as inequality exists within a given space (state), classes will seek to restructure the system. Marxist writers have attempted to find solutions to

improve the conditions of African working class, as well as to diminish the gap between the ruling class and the masses for a more equitable society.

Frantz Fanon, the activist, psychiatrist and revolutionary writer made a compelling argument in his book, Wretched of the Earth (1961) about the relationship between the working class, the class of nationalist leaders and the European workers. According to Fanon, the class of nationalist leaders betrayed their people (working class) by accepting “the dividends that the former colonial powers handed out”. He goes on to describe the nationalist leaders as “a sort of little cast, avid and veracious” (Zeilig, 2009, p.174).

To a large extent, the dominant mode of thinking in Africa today is inherited from the colonial masters and their creation of the state. Not surprisingly, therefore, the very concept of class has been dogmatically applied and often ignored. The petty bourgeoisie leadership since independence has been an obstacle to further the development of the African revolution by either exploiting the working class or denying that there are any class differences between themselves on the one hand and the workers and peasants on the other (Wamba-dia-Wamba, 1976). The apologists for one party-state system seeks to deny the existence of classes and class struggles in order to reject the demand of democracy. Wamba takes the case study of Congo-Brazzaville to explain his point. His point is that ‘one classless community’ leads to ‘one people’, ‘one party’, ‘one leader, father figure, father of the nation’ (Nyong’o, 1976, p.101). In other words, neo-colonial regimes use the demagoguery of “oneness of the community” to equate it to “oneness of community interest” or oneness of class, which does not make sense.

In his book, Big Men Little People (1999), Alec Russell describes how the African petty bourgeoisie betrayed the nationalist movement by legitimizing their control over property through the capitalist system and by later using coercive means such as militarization. In present

day Africa, class relations are still determined by relations of power not economic production (Englebert & Dunn, 2013, p.111). Whereas in pre-colonial Africa hegemonic power is manifested through the lineage mode of production, today hegemonic power and status is derived through the state. Gaining access to the state is therefore how one gains access to resources. In this sense, political corruption becomes the primary means of accumulating wealth. The end result is cultivation of clientalism as national resources are distributed both vertically and horizontally from state to local elites rather than merit-based. The richest in Kenya benefit from significant proportion of the surplus product, labored by workers and peasants and equally receive a disproportionate share of the product when monetized and circulated. The poorest in Kenya produce little or no surplus labor. Instead most of their labor time is expended in the pursuit of basic subsistence. Over the years such inequalities in production circulation of state resources have contributed to class antagonism and resentment across all social groups. Following independence, the new Kenyan elites, who assumed control, entrenched themselves in the economy by taking over the former settler farms and the major agricultural units of production. They also consolidated their hold on political power through constitutional amendments that stifled opposition political parties and centralized power in the executive. Party leaders were rewarded with positions in government and access to the settler farms in the White Highlands. Clientelism flourished and emerged as the main means of cementing class relations between elites.

By examining these relations and their impact on the lower classes, class analysis helps me to partly verify my hypothesis about class marginalization and electoral violence.

CHAPTER 3: ROOTS OF MARGINALIZATION: LAND, ETHNICITY AND CLASS FORMATION

In this chapter, I will analyze the intersection of land tenure, class formation and ethnic relations to understand social marginalization through the state apparatus. The Kenyan state is partly responsible for consolidating marginalization of social groups by implementing land policies that favored colonial ethnic reserves and class stratification. Often the state set the stage for social realities of class and ethnicity to converge. The creation of a taxable base among rural Africans, and the expansion of commodity production, were critical aspects of the penetration of the colonial state. The dislocation or rather paradigm shift of articulating rural societies in terms of clan and family to a wider framework of interaction, culminated in the emergence of ethnicity as source of loyalty. The rural-urban migration during the colonial and post-colonial period served to strengthen the social realities of class and ethnicity and the interplay between the two. Towns served as crucibles in which class and ethnicity fused together, the rural sectors experienced patterns of restratification which often tended to fragment the rural communities across ethnic lines. (Kagwanja, 2010, p.55)

The chapter has three sections. In the first section, I will be discussing state and class formation in precolonial, colonial and post-colonial Kenya. The land question is integral to the formation of classes in Kenya because land is not just a primordial inheritance but also a means to access of production and wealth. The second part of the analysis focuses on how the state ethnicized the land question through politics of exclusion, neo-patrimonialism and eventually ethnic profiling of various groups. The third section is a summary of argument in light of the land tenure issue.

3.1 State and Class Formation

The class stratification of Kenyan society stemmed from the changes in production forces as the country transitioned from peasant mode of production to capitalism mode of production. Class analysis in Kenya can be subdivided into three major eras: pre-colonial, colonial and post-colonial.

Colonial stratification undermined traditional land tenure and imposed a racialist system of administration. With time, this provided the breeding ground for inequality and resentment to flourish within the alienated majority, that is, the working class. The trajectory of colonialism changed the economy by facilitating the emergence of an African petite bourgeoisie. It increased the importance of domestic and foreign markets for peasant agriculture and pastoralism and the subjugation of women and the emergence of a predominantly male wage-labor force.

To gain a deeper understanding of the intricate relationship between land and class in present day Kenya, it is necessary to understand how colonialism encroached upon pre-colonial African communities (Kikuyu, Masaai, Luo etcetera), thus laying the foundation of new social and economic order. But to do so, I will revisit some relevant aspects of pre-colonial mode of production that shaped the transformation of the country's political economy (Kagwanja, 2010, p.58)

Agriculture and animal husbandry were the main sources of subsistence in pre-colonial society, but they were not the only economic activities. One important activity that proved particularly adaptable to the colonial economy was trade. Oral histories from veteran kikuyu entrepreneurs provide an account of how kikuyu traders exploited the commercial opportunities offered by pre-colonial societies. Traders led caravans numbering 30-200 over Nyadarua

Mountains to trade the various products of kikuyuland for the livestock of the pastoral Masaai (Leo, 1984, p.38). The entrepreneurship of long distance traders was closely tied to the land. This is because most of the products –as well as the animals that represented the profits –were agricultural goods. The advent of European settlers saw the reciprocal relationship between trade and agriculture grow into larger scale production. The traditional form of barter exchange was replaced by cash trade system for the remainder of the colonial period and after independence.

The relationship between land transaction and class formation among the kikuyu ethnic community is noteworthy. This is because the kikuyu grievance over land transaction turned out to have the greatest long-term impact on Kenya's politics. Also because the kikuyu represent the largest percentage of ethnic group in the country. In pre-colonial era, the basic unit of kikuyu society was *mbari*, or lineage, which consisted of the descendants of a single man. The members of *mbari*, who usually numbered in the hundreds, were the joint owners of a piece of land, called their *githaka* (Leo, 1984, p.30). The original acquisition of a *githaka* took place when a man undertook the first clearing of virgin land or when he purchased land. Thereafter, his descendants would inherit pieces of that land for their own use. After the death of the founder of a *mbari*, the lineage would select a *murumati*, a leader of the *mbari* in matters of the land. According to Christopher Leo (1984), "The *murumati* had no more cultivation or building rights than his brothers" (p.30). Instead land was distributed to members of each successive generation according to their need for it. In addition, there was a variety of means for those who had no rights to become tenants of the *githaka*. For example, land could be distributed based on family ties or friendship, in exchange for livestock or for labor or commodities. This ensured that marginalization and exclusion of "others" did not prevail. When the *githaka* became overcrowded some members of the *mbari* could move out to new land and form a new group

(Leo, 1984, p.32). However, Europeans claimed unrestricted right to unoccupied land. Such seizures robbed the kikuyu land tenure system of its dynamic element and brought about distortions, not only in land tenure but also in the social system as a whole.

When the first Europeans arrived in the Kenyan highlands, they found a society largely untouched by capitalism. Social organizations were focused on the extended family and the people earned their livelihoods by agriculture, cattle keeping, handicrafts and barter. The colonial era brought both the benefits and disruptions of capitalism to Kenya. Europeans introduced modern agriculture, commerce and industry. In the process new wealth was created side by side with new poverty, and each was contingent upon the other. (Leo, 1984, p.27) Much of the wealth was based upon the exploitation of agricultural land, while some poverty stemmed from the loss of land and exploitation of labor upon the land.

Europeans were not familiar with African land tenure systems and there was a tendency to assume that *githaka* rights were nothing more than temporary rights of usufruct rather than the permanent rights that they in fact were (Leo, 1984, p.28). The assumption made it easy for Europeans to claim any piece of *githaka* land that was temporarily not being used. Africans on the other hand, may not have understood in the early days that when Europeans offered money for land they were after permanent and inalienable rights. In some instances, they may have believed they were granting the kinds of tenancy rights described above: distribution based on friendship, in exchange for commodities without involving permanent rights. The sense of private property vested in the family was highly developed even among the Gikuyu, however it did not necessarily mean the exclusive use of land by the owner, or the extorting of rents. Europeans misinterpreted this act by stating that land was under communal or tribal ownership, and as such the land become '*mali ya serekali*' which means government property. Having

coined this new terminology of land tenure, the British government began to drive away the original owners of the land (Kagwanja, 2010, p.60).

An area totaling three million acres was reserved for European agriculture and Africans were barred from owning land within it. Colonial economy in Kenya converted the peasants existing communities from independent peasants producing crops for their subsistence, into peasants dependent on agricultural wage-labor. Africans were compelled to work partly by force, partly by taxation, and partly by preventing them from having access to enough land or profit crops to enable them to pay taxes without working for wages. The wages they received were extremely low compared to their contribution in the production process (Leys, 1975, p.34)

Through the establishment of Kenya Land Commission, the British settlers were able to acquire the most suitable land for cash crop farming with more rainfall and higher yielding potential compared to reserves where African or rather ‘natives’ were restricted to. The largest proportion of the arable land was mixed farmland, supporting a variety of crops, notably cereals and vegetables, and dairy cattle as well. The squatter system became the legal framework supporting the exploitation of proletariat or working class by the “bourgeois” –white settlers who owned the means of production such as land and technology. Squatter system assured Europeans farmers of a constant supply of cheap labor, while at the same time maintaining the exclusiveness of their rights of ownership and permanent residency in the highlands (Leo, 1984, p. 29). Under the squatter contract, the squatter agreed to work a specified number of days per year and in return the settler allowed him and his family to live on the farm and cultivate a plot of their own. Africans were forbidden to reside in the white highlands in any status other than that of their respective labor contracts. The white settlers imposed limits on the squatters’ stock and on the size of their cultivation plots, to increase their workloads, and even to get rid of some

of them. In Marx's central analytical perspective the exploiting class can determine both the conditions under which another class can produce and the level of that class's subsistence. Therefore the European capitalist class determined the value of African labor power which the African working class sold (Leo, 1984, p.45)

Unfortunately, the migrant squatters were no longer assured of their native land rights-*githaka* (ancestral home). This legislation further implied that European settlers could grab all 'unoccupied' land in native reserves, leaving the poor African working class with limited access to land. To squatters the enforcement of such regulations meant that they were gradually being reduced from quasi-peasant status to landless laborers (Leo, 1984, p.36). It also meant that their low income-wage was insufficient to sustain their needs and that of their family. Their previous incentive of cultivation rights and opportunity to keep substantial number of livestock in the European ranches was no longer insured. Another obstacle for squatters was the kind of tasks and skills they were restricted to perform in the production process. Most squatters were deliberately kept ignorant of modern agriculture and animal husbandry so that they remained mere cogs in a machinery. Their restriction to manual labor and other simple routine tasks kept them from retrieving their peasant status. As such, squatters and other wage laborers sought off-farm labor market for their resources to begin accumulation (Kitching, 1982, p.370).

The discovery of informal sector provided the poorest households with prospect of upward mobility. As population pressure resulted in congestion and declining productivity in the native reserves, and as the ongoing process of stratification turned that pressure into an impoverishment of those who lost out in the land scramble, so it became ever more necessary for the poorest male labor power to find an outlet elsewhere and for its subsistence pressure to be taken off the land (Kitching, 1982, p.378). Population pressure led to migration into white

highlands in search of wage labor, adding to the number of kikuyu squatters already in the highland. The population growth also spawned the upsurge of urban migration and unemployment by African labor force. The growing labor abundance only necessitated a greater intensity of labor exploitation by the capitalist class. This is not a contradiction as Marx explains in Volume I of Capital that “a large and growing reserve army is often a prerequisite of greater exploitation, as it helps ensure the docility and pliability of the work force in employment.” (Kitching, 1982, p.380) In essence, the increasing ‘surplus’ of labor slowed down the rate of increasing wages –particularly for the unskilled laborers. The implication of urban migration was manifested through the widening gap between wages of unskilled workers in urban areas such as Nairobi, Kisumu and Mombasa and those of skilled or white-collar employees. To this date, the gap in social classes of urban population continues to separate or rather marginalize the unskilled working class from the skilled white-collar employees. As a result, the agrarian class system established by the British settlers’ transformed local societies consisting of cultivators, herdsmen, and petty traders into a landless class, a peasantry and a petty bourgeoisie (Leo, 1984, p.20) In short, colonialism produced class formation within African society.

Not all Africans fared as badly under colonialism as did the squatters. For some, colonial economies evoked a chance of missionary education, a relatively well salaried job, or a profitable enterprise. For Africans to take advantage of such opportunities they needed to acquire the necessary skills and capital accumulation to participate in the fast growing modern sector of Kenyan’s economy. In the process, the kaleidoscope of classes and class fractions characteristic of a nascent capitalist economy took shape: a peasantry, the most prosperous part of which soon began to build an agricultural base for capital accumulation; a petty bourgeoisie, including traders, merchants, and a salariat; and wage workers, many of whom –by virtue of part-time

pursuit of petty trade and or continued attachment to land –were more akin to an embryonic petty bourgeoisie, or a peasantry, than a proletariat (Leo, 1984, p.49) These classes remained fluid over time because people moved freely back and forth and also because peasants practiced two or more occupations as wage laborers and traders at times.

Colonization engendered social classes through three main avenues. First and foremost, colonial modern economy introduced a different type of mobile trade from that of kikuyu and Masaai traders in pre-colonial communities. It involved buying surplus produce from squatters and transporting it to markets in urban cities and towns such as Nairobi, Eldoret and Kisumu. In urban areas, there were outlets for African entrepreneur talents ranging from butcher shops, small restaurants, teashops and *maduka* (provision stores). While in countryside towns Africans traded in farm produce (Leo, 1984, p.51). Regardless of urban or rural settings, modern trade contributed to class formation by changing class consciousness and changing the relations to the means of production. For Karl Marx, classes become truly classes when their members become aware of their specific economic interests as distinct from those of people in other classes. Once this happens, classes conflict with each other and class struggle becomes the engine of history (Englebert & Dunn, 2013 p.109)

The second mode of class formation in colonial era was education. Education through missionary schools, government schools, technical training programs and university degrees all provided the avenues for Africans to acquire a class position in the Kenyan society. In the eve of Kenya's independence, graduates of secondary and tertiary education were offered the opportunity to serve modern sector of the economy as business entrepreneurs, top leadership in political administration and civil service. As long as their education was sufficient, the post-independence wave of Africanization secured their position as petty bourgeois.

The third mode of class formation is related to the second case in terms of economic consolidation. Richard Sklar (1979, p.168) notes that once a dominant class forms it attempts to reconstruct the existing organization of authority in accordance with perceived needs (Englebert & Dunn p.112). Economic domination is consolidated as the elites use their power and control of the law to acquire substantial plots of land and provide the best education for their children, who will become the next generation of elites. The new class of African elites used the state institutions to gain access to resources and state power. This was done by transferring the assets from foreign companies and investors through the wave of nationalization in order to accumulate personal wealth. In this context, political corruption becomes the primary means of accumulating wealth. Politically the ruling class may embrace authoritarian ways and military rule in order to protect itself from the challenges of growing class consciousness among the masses. In some cases, politicians have used “tribalism” to divide the lower classes and prevent them from gaining class consciousness and overthrowing the government. This is arguably one of the reasons for the failed coup-d’état in 1982 and subsequent 1992.

The re-Africanization of white highlands in early 60s transformed the land issue into a prime site of ethnic and class competition over resources left by European. The settlement scheme involved the government buying farms from ‘willing settlers’ and turning them into settlement schemes designed to suit different social classes. There were schemes for peasant laborers and squatters, and also schemes for capitalist farmers (new economic and political elite) with interest in commercial farming. The class dimension in the resettlement scheme was evoked through the skewed bias for those with operating capital. Therefore those with ability to pay 10% deposit for the cost of the scheme secured larger plots. The landed elite remained in control of both the politics and economics and used their upper hand to accumulate benefits. For example,

they financed violence through militia groups and gangs to deflect attention from the soaring inequality in land ownership to inequalities in distribution of political power (Kagwanja, 2010, p.54)

Independence made little or no structural difference, in fact, there was a continuity of socio-economic trends from the colonial to post-colonial stage. The process of differentiation, which is the relative gap between the richest and poorest African household gained momentum. Some African households gained access to the very highest income and to forms of wealth which had previously been monopolized by Europeans and Asians (Kitching, 1982, p.316). The intensification of the widening gap was facilitated by the inequality in access to the state resources. In short, the post-colonial state become the very foundation of economic prosperity. One of the most important social classes to be developed was that of African petite bourgeoisie also known as bureaucratic bourgeoisie. This is because the bourgeoisie in African countries bear the hallmark of a fairly distinctive process of development.

An understanding of the development of African bourgeoisie requires viewing it as part of the broader process of class formation. Before I begin, however, a clarification is in order. My interest here is not to underline the functional or economic character of this bourgeoisie, i.e. whether its operations were predominantly merchant or industrial. The point of this analysis, as will become clear, is to underline the political characteristic of the African bourgeoisie. The African bourgeoisies developed by and large as a *comprador* class to help establish the western capitalist imprint on development. Under colonial rule Europeans imported immigrant bourgeoisie from India to East Africa and from Lebanon to West Africa to mediate on their behalf for market relations with indigenous chiefs. Colonial era later foresaw the development of a substantial indigenous bourgeois stratum (Nyong'o, 1987, p.84). In this sense, indigenous

African bourgeoisie has for the most part been a very recent, post-independence formation. In its creation, the direct employment of the state power has played a central role. Thus, having a state connection has been vital for an individual to become a member of this class and to prosper as one (Nyong'o, 1987, p.84). This is indeed true of the Kenyan state following independence. This is why the development of an African bourgeoisie has had a more top-down character than anywhere else. Here state position acts as a lever for capital accumulation rather than being rewarded for it. The high stakes in the Kenyan political system partly stemmed from "class consciousness" of the political elite who viewed public office as a means to gain access to state resources, 'privileges' and opportunities. This individualistic culture of personal improvement "up the social ladder" and notion of "human progress" was ingrained within the western philosophical tradition. Most Kenyan elites were exposed to the British culture and education which sustained capitalist system through the exploitation of cheap labor and consumerism of western goods. A 'winner takes all' political system means that political contests have become all the more charged because of what is at stake; those who achieve political power benefit from "corruption and misuse of public resources" for personal gain. The objective is therefore, to secure control of the state in order to eat. This is partly why elections in Africa, whether single or multiparty affairs are usually a "predictable hoax" (Nyong'o, 1987, p.89). And also why the typical method of resolving contradictions inside the bourgeoisie is a coup not an election. Criticism is seen as sabotage and opposition is normally depicted as treason.

In summary, the colonial state changed the pre-colonial mode of production which was lineage system to capitalist mode of production. European administration and private enterprise introduced two explosive novelties: wage or salary employment and formal education. The latter was often the vehicle for African entry into the former; it was the predominant vehicle for access

to the higher levels of wage and salary positions. European settlers introduced the notion of money or cash to acquire land, industries and properties of the indigenous communities through the idea of “willing buyer, willing seller” (Nyawalo et al. 2010, p.69). The Europeans also introduced ‘permanent’ private property which was unheard of among the indigenous African communities. The European capitalist mode of production also facilitated the conditions for a new social class to emerge, the petite bourgeoisie. The Kenyan petite bourgeoisie become voracious consumers of western products, while grassroots’ cheap labor provided the raw materials to support the capitalist machinery. The petite bourgeoisie was given access to state resources by the departing European settlers which they used to consolidate their landholdings, natural resource endowment, off-farm businesses and investment in education. Their desire for material possession manifested through their greediness to accumulate immense wealth at the expense of the masses. Over time, this tendency has created inequalities and unevenness among the various social classes: peasantry, working class and petite bourgeois amongst others.

Peasant agriculture and pastoralism became increasingly geared to production for domestic and foreign markets; and changes in the sexual division of labor led to the greater subjugation of women—particularly in the poorest households—and to the emergence and stratification of a predominantly male African wage labor force. The colonial state divided the country into producing and non-producing areas or regions. Some of the inequalities arose from the fact that some households inhabited land which was not suitable for intensive production. For many years, the bulk of state resources were concentrated in the ‘high potential areas’ leaving the semi-arid pastoral communities lagging behind in all spheres of development (Mutua, 2008, p.27). Because of their resource base, some regions such as Rift Valley and Central province, have been privileged over others in the development process of the country. The

institutionalization of social inequities over the years created widespread marginalization and resentment across the various ethnic groups and social classes.

In Kenya, the ruling class or rather the African petite bourgeois took charge of production and circulation of surplus product, principally through the state power. The Kenyan petite bourgeoisie took advantage of the basic political relation between the state (rulers) and the popular classes (the ruled) to amass the resources that belonged to the people. The ruling class resorted to patronage system in rewarding loyal allies and extended family with state resources. This generated widespread exploitation of all social classes, particularly working class. Class struggle manifested in numerous forums including political rallies and formation of local gangs. The Kenyan state had failed its obligation of protecting its citizens as part of the social-contract

3.2 Ethnic-Politicization

The recent post electoral violence and the conduct of the preceding electoral campaigns brought into sharp focus the underlying ethnic fissures in Kenyan society. The historical origins of socio-political marginalization and economic inequality can be traced back to colonial manipulation of ethnicity and ethnic groupings. I argue that land reforms through settlement schemes and the land purchase programme ethnicized the land question and subsequently laid the foundation for ethno-political conflicts.

For Kenyans, ethnicity is defined along tribal lines; a sense of belonging is attached to common tribal roots. This sense of belonging could impact a society positively or negatively. Positive ethnicity diverts the focus from ethnic competition to individuals contributing towards developing regions in the country. For instance, where individual members of an ethnic group

join efforts to raise funds for development of their rural village it could be termed as positive ethnicity. Negative ethnicity connotes a sense of belonging harnessed to perpetuate exclusiveness in ethnic relations and as a point of competing against other ethnic groups. An example of negative ethnicity is when certain communities are perceived to be favored by those in authority while ‘others’ are left marginalized from national resources and political power (Mutua, 2008, p.19). Those that are believed to be ‘favored’ or ‘chosen’ manage to secure and build up resources. In the process, they may develop a sense of superiority and have been known to engage in disparaging the identities of other communities (Nyawalo, 2011, p.36). In the long-run marginalized communities harness resentment against the government and particularly the rival ethnic group; this may culminate into widespread violence also identified as ethnic conflict. Ethnic conflicts on the other hand, are described as conflict between two or more ethnic groups over identity, borders and resources. This is because all ethnic groups seek to secure more power or access more resources in order to evade becoming oppressed by ‘others’.

Historically, Kenyans have used social identities such as ethnicity and religion to determine their votes for political leaders. Given the fluid nature of social identities –race, religion, class, ethnicity and nationality, people may fight for control over resources using different avenues depending on the situation at hand. These include: ethnic conflict, class conflict, national conflict etcetera. A clear example of the fluidity of ethnic identity in the Kenyan situation is where ‘traditional’ tribal identity shifted from individual tribes to regional identity in post-independence era. In this case, the point of identity becomes regional such as western, eastern or central as opposed to Kikuyu, Luo or Kamba which is tribal. It is this potential to negatively manipulate the existence of distinct groups in a plural society that presents a potential for societal instability.

Ethnic relations and conflicts over land

According to Peter Kagwanja (2010) settlement schemes and the land purchase programme contributed to ethno-political conflicts from the 1960s. Lumumba (2005) concurs with Kagwanja on the argument that Kenya's recurrent and persistent ethnic conflict was laid on the eve of independence in 1963, when both administrative and ethnic boundaries were conveniently made coterminous (Kagwanja, 2010, p.61). According to Lumumba, the decades following independence witnessed a similar pattern of land-ethnic relations reminiscent of colonial policies in the twenties and thirties. He elaborates that "while land is a necessary starting point for explaining why ethnic conflict persists in the country, it is not sufficient to unravel all the forces that have given rise to ethnic animosities" (ibid., p. xvii) Some of the issues he discusses include: rural-rural migration (for the purpose of land consolidation); rural-urban migration that has pitted in-migrants against natives of an area); ethnic animosities stemming from inequitable division of the national cake, land disputes, political wrangling; and political marriages and separations of convenience among potentially antagonistic ethnic groups; lack of inspiring, nationalistic and neutral political leadership. (ibid., p. xvii)

- **The Pre-colonial period**

The conceptual, legal and sociological policies of British colonizers interfered with the process of evolution and expansion of a large number of pre-colonial ethnic groups in East Africa. Bantu speaking communities such as the Kikuyu, Embu, and Meru inhabited the richest agricultural lands in central Kenya. These communities grew beans, peas, sweet potatoes, sorghum, arrowroot and millet besides keeping livestock. Their produce allowed them to sustain their population increase as well as nurture a constant trade with neighboring agro-pastoral communities such as Maasai and Akamba. On the other hand, in western Kenyan the Luo and

Luhya reared animals and cultivated crops. The Luhya were characterized by internal and external rivalry as they confronted their neighbors over land and pasture. Among the major causes of fighting were periodic draughts and famine (Kagwanja, 2010, p.48). Similarly, the Kalenjin communities in Rift Valley and Mount Elgon Region were involved in intensive inter-tribal warfare throughout the nineteenth century. Regional trade among these communities provided inter-ethnic linkages and coexistence that militated against land based conflicts.

The Nilotic-speaking groups such as Turkana, Maasai, and Nandi pastoralist controlled the largest portion of Kenya's pre-colonial territory. The Maasai in particular had conquered and assimilated several ethnic groups in their movement downward to present day Tanzania. The Maasai had found Kalenjin and Kikuyu communities living in most of western and eastern highlands, through their colonizing tactics they managed to deprive the movement of these two groups to fertile grazing lands (Kitching, 1982, p.78). However, the Maasai power dwindled tremendously toward the end of the nineteenth century mainly due to internal wars among Maasai groups, natural disasters and livestock diseases. This allowed the Kamba, Kikuyu and Kalenjin raiders to encroach on Maasai grazing lands and absorb survivors of the Maasai wars (Nyawalo et.al, 1982, p.28). This pre-colonial ethnic-land relationship is important. It sets the stage for how ethnic groups related to each other prior to the advent of European colonizers. Secondly, it enables the readers to understand why ethnic animosity has persisted in Kenya. Lastly, the importance of revisiting pre-colonial ethnic relations with regards to land is to show that ethnicity thrived in most pre-capitalist African societies. Therefore colonial rule did not balkanize African societies into 'tribes' as suggested by instrumentalists.

- **Colonial period**

According to instrumentalism, colonialism and the post-colonial state elite engendered and fostered “ethnic” allegiance by imposing alien land-tenure relations on prevailing traditional Kenyan society. The land policies fostered by colonial and post-colonial administrations benefited certain ethnic groups at the expense of others. With the arrival of the British settlers, new land policies and legislation were arbitrarily drafted so as to prevent land speculation that had occurred in other white settlement areas. The area north of present day Nairobi was occupied by the agricultural kikuyu and was particularly attractive to the settlers because of the water abundance and other natural resources. In fact, approximately 60,000 acres of kikuyu territory in Kiambu-Limuru district was transferred to settlers’ between 1903 and 1906 (Kagwanja, 2010, p.49). Maasai pastoralist faced a similar fate, two treaties of 1904 and 1911 respectfully resulted in the loss of prime grazing land especially in Laikipia region. From then onwards the process of land contestation has been battled out in court by young educated Maasai members who felt aggrieved by the contracts of the treaty. Some of these cases have been dismissed due to technicalities while others are still ongoing.

Apart from the Maasai, other ethnic groups have protested against land measures introduced by the colonial government, such as forced labor, doubling of taxation, and the launch of *kipande* (identity card). These complaints led to the establishment of a Land Commission in 1932 to look into the grievances. Unfortunately, the Commission faced various challenges including lack of transparency and accountability in its policies. For economic reasons, the commission deliberately created land reserves based on ethnic groupings. The policy of land reserves was reinforced through *kipande* system, which in turn provided a pool of cheap labor for European farmers (Leo, 1984, p.42). Many landless kikuyus migrated to the Rift Valley region,

or were descendants of squatters outside the reserves. The Land Commission results were bitterly disappointing for the African populations as they endorsed segregated system of land holding. The segregation of land was not just based on class, but also legal dimension in terms of introducing the notion of “land-titles” and eventually fuelled ethnic animosity, because the policy of reserves strengthened the basis for tribal allegiance.

The use of the term tribe and tribalism especially when applied to the African situation is fairly controversial. Instead the term ethnicity is seen to be politically correct. However, for the sake of this analysis, I will refer to the term tribe from time to time especially because the term is familiar to most readers and has long been used by many political leaders and scholars of ethnic politics. Ethnic marginalization stemming from colonial rule can be analyzed using an instrumentalist approach. According to the theory of instrumentalism, colonial and post-colonial state elite engendered ethnic allegiance its saliency and persistence by imposing alien land-tenure system through the policy of reserves and artificial tribal boundaries. The *kipande* system was a clear example of how colonialists imposed the notion of ethnicity and ethnic allegiance on African societies (Leo, 1984, p.45). Similarly, the categorizing and counting of ethnic groups by the colonial state was an active intervention into the process of ethnic social and political creation. According to Bruce Berman (2010 p.22) the colonial state was acutely conscious of Africans living in ‘tribes’ and they used the instruments of the modern state power to define and classify Africans through scientific instruments like maps and census. Such maps and census were later adopted by the post-colonial state to assign individuals and communities to what were believed, often erroneously, as ancient primordial identities. The social construction of ethnic differences was also spurred by European missionaries who produced grammars and dictionaries that later turned local dialects into the standardized written language of an entire ethnic group.

Ethnic animosity between the Kikuyu and the Kalenjin/Maasai took a downturn spiral after the release of Jomo Kenyatta. Prior to his release, Oginga Odinga addressed a large crowd in May 1961 stating that Africans should not buy land in the white highlands from departing Europeans because the land was rightfully theirs. The Kalenjin and Maasai concurred with Odinga based on their primordial beliefs. However, Kenyatta soon undermined their concerns. Kenyatta stated that land should be bought so as to respect property rights. This statement aggrieved many not only because land was not seen as something to be purchased but also because it created divisions within the nationalist movement in 1960's. This was later reflected by political ideology and ethnic-politicization around economic interests. Ethnic groups as Robert Bates observes, "persist largely because of their capacity to extract goods and services from modern sector and thereby satisfy the demands of their members (Bates, 1983, p.154). Insofar as they provide these benefits to their members they are able to gain their support and achieve their loyalty. The alliance of the Kalenjin groups in Rift Valley and the Coastal communities was simply based on fear and suspicion of the Kikuyu.

Land question had informed the politics of transition to *uhuru* –independence. African leaders had formed political parties along ethnic lines. For example, the two main parties KANU (Kenya African National Union) and KADU (Kenya African Democratic Party) were divided on a number of issues mainly evoking from ethnic animosity. KANU was led by Jomo Kenyatta with membership support from large Kikuyu and Luo ethnic groups, while KADU was under the leadership of Ronald Ngala. KADU's aim was to protect the interest of its members – KAMATUSA (an acronym for Kalenjin, Maasai, Turkana and Samburu). KADU argued for restoration of precolonial land (read Rift Valley) to its primordial inhabitants, that is Kalenjin, Maasai and their related groups. As such, KADU advocated Majimbo system which is a federal

structure of government in which primordial ethnic groups could recover their territories. On the other hand, KANU mostly made up by GEMA³ members preferred a unitary government and respect for property rights.

It is important to stress the connection between ethnicity and land as a potential underlying cause of historical marginalization and resentment. Through its legitimacy, the state became central in mediating the connection between land and different ethnic social groups. As part of its re-Africanization process, the Kenyan government provided land to African communities. However, given the nature of Kenyatta's government most of this land was given to civil servants and people of political influence. Their position and allegiance to government enabled them to access to large land holdings in the former highlands. This arbitrary transfer by the state fostered social marginalization of minority groups. In addition, the state also recognized the formation of land purchase companies by different ethnic groups. Some of the private land companies that mobilized support from their respective ethnic regions include: *Sinendet Farmers Companies* (a predominantly Kipsigis/Kalenjin company); *Ngwataniro Mutukanio* (Kikuyu Land Company) (Kagwanja, 2010, p.84). Therefore, the settlers' farms became primary sites of intense competition between and among different land purchase groups, which were distinguished by their ethnic or class competition. Kikuyu vs Kalenjin was the most intense inter-ethnic competition as the two groups sought to undermine each other in buying the best and largest farms in Rift Valley Province. Accessing land rights in the highlands through the land purchase programme did not evolve inter-ethnic animosity only (Kagwanja, p.74). The highlands also became a sphere for informing national politics and determining the future of Kenya as a nation state (Kagwanja, 2010, 74). Class composition of those in leadership and ethnic composition of

³ GEMA- Gikuyu, Embu, Meru and Akamba ethnic groups.

the land buying companies became a factor for intensifying inter-ethnic rivalry over the control of large farms in the highlands. Often elite members used this inter-ethnic rivalry to wage wars against rivals, to improve their social bases of power, and to consolidate their political positions and that of their ethnic groups.

As already noted, settlement schemes and the land purchase programme contributed to ethno-political conflicts from the 1960's (Kagwanja, 2010, p.77). The various economic and socio-political groups realized that control of land would provide them with the means to buttress social bases of support. In fact, all groups struggled to find a place in the settlement schemes for their landless constituencies even if they opposed the principles in which they were organized. The kikuyu had overwhelming influence on officials in the Ministry of Lands and Settlement, and the financial institutions that provided the loans for land purchasing. Indeed various analysis and national statistics conducted during the 60s and 70s on composition of public sector positions showed that members of the Kikuyu community dominated the senior positions. This included having relatively more cabinet ministers and permanent secretaries than other ethnic groups (Kagwanja, 2010, p. 77).

There are several factors that prevented animosity from erupting into violent ethnic conflict at the time. Part of the reason is that KANU settled the matter by including KADU leaders in government. However, this only reduced the danger of ethnic violence rather than resolving the underlying factors. On the other hand, there was suspicion and mistrust among various Kalenjin sub-ethnic groups, and particularly between the numerically larger groups such as the Nandi, Kipsigis, Tugen and Keiyo.

Apart from retracing the instrumental role of colonialism back to the invention of the term 'tribe', instrumentalism also maintains that tribal allegiance arose as a direct result of

colonial policy of 'divide and rule'. Tribal allegiance in the country-side or villages was reinforced through the historical demarcation of land by the colonial administration also known as tribal reserves. Settlement schemes also played a role in tribal allegiance because it developed the notion of ethnic collectivity in combatting colonial market forces. In urban areas such as Nairobi, Nakuru and Kisumu, colonialists contributed to the construction of tribal allegiance by profiling ethnic groups into hierarchically structured migrants. Tribal allegiance was reinforced through ethnic profiling in terms of access to education, jobs, social services and even political power. The colonial state and its auxiliary agencies such as the Christian missions and ethnographers were able to disseminate and consolidate the similarities and differences among Kenya's ethnic groups based on physical and cultural features. Such an understanding reinforced tribal allegiance because ethnic groups felt that "ethnicity" or "tribe" was an imprint of their primordial history and identity. The interpretation of tribal allegiance based on primordial linkages (blood ties, its attendant emotional bonds and the historical memory of the other opposition groups) was consolidated in Kenyan society from colonial era. The divide and rule tactic managed to set tribes against each other by reinforcing the primordial ethnic differences in a negative way. In so doing, the colonial state was responsible for producing and cementing tribal stereotype and ethnic profiling in everyday relations –politically, socially and economically.

For instance, among the Kalenjin, there is the belief that Kisii are witches and so the sight of a Kisii next to a Kalenjin's field of maize tends to raise the suspicion that s/he might have bewitched that Kalenjin's crops. At times the concerned Kalenjin may force the Kisii 'witch' to remove the bad omen from his crops which in turn may create tension or conflict between the two (interview, respondent 6). Such stereotyping and prejudices can also be found with other

ethnic groups in Kenya. Gikuyu, for example, are believed to be industrious, money lovers, conmen and even deadly thieves. Ethnic profiling exacerbated the relations of ethnic groups.

It also distorted the perception of an entire ethnic group (Kikuyu) as money hungry community and criminal gangs such as *Mungiki*. However, the aim of *Mungiki* since the 1980s was to revive indigenous Gikuyu culture and religion, but also to liberate the Kenyan masses from Moi's political oppression and economic exploitation. Through decades of political 'brainwashing' mainly by the state, people perceived *Mungiki* as a terrorist group that was ethnically charged to kill non-kikuyus.

Orange Democratic Movement opposition leader, Raila Odinga, manipulated and convinced other tribal groups of the evil intentions of Kikuyu "mafia" in appropriating social resources. However, in reality there were many poor Kikuyus that remained disfranchised from political power and state resources. Raila's campaign leading towards 2007 general election highlighted the catchphrase of "forty one tribes against one" and "Kenya against the Kikuyu" rhetoric. Other examples of ethnic profiling in Kenya is the perception that Luo men (14%) are uncircumcised. In her article, " 'Not men enough to rule!': politicization of ethnicities and forcible circumcision of Luo men during the postelection violence in Kenya," Beth Ahlberg (2013) posits that part of the ethnic animosity between Kikuyu and Luo groups stemmed from the issue of circumcision. For Kikuyu circumcision is not just a transition from boy (*kihii*) to manhood, but also part and parcel of primordial traditions. Due to ethnic-politicization, Kikuyu men referred to Luo as *kihii* –a derogatory and demeaning term that insinuates a man of little value that is "not man enough to rule" (Ahlberg & Njoroge, 2013, p.458). Lastly, the coastal people are seen as inherently lazy and less educated. For this reason, fewer jobs in public offices are offered to people from the Coastal region.

Kenyan historian Macharia Munene (1998) traces back ethnic profiling and tribalism to colonial invention and manipulation of political ethnicity (Kagwanja, p. 94, 2010). The colonial powers also established new elite positions through chiefs, dominant clans, or families in leadership position, which, in turn, provided the opportunity for some groups and individuals to amass wealth at the expense of others. All in all, the division of land by the colonialists, compounded by the colonial construction of community prejudices, promoted negative ethnicity, which has further been non-constructively exploited by subsequent post-independence regimes.

POST-COLONIAL ERA:

The role of ethnicity in shaping the character of Kenya's political parties and party system can be analyzed as a cause and consequence. In post-colonial era, ethnicity became not only a basis of political support, but also of political marginalization. In order to secure control of the state and access the resources, Kenyan politicians realized the gravity of forming ethnic alliances and cross-ethnic coalitions. In post-colonial era, ethnicity became the source of political support to gain political power. For this reason, it was not uncommon to find political parties that drew support from ethnic allegiance. The consequence of political parties and ideologies based on ethnic clientelism is skewed distribution of public resources, poor governance, and failure to adhere to democratic procedures. Therefore, social marginalization is a direct consequence of ethnic-politicization. Kenyan post-colonial elites favored their co-ethnic groups at the expense of 'outside' groups so as to secure their win. Ultimately, favoritism and neglect of other groups in terms of goods and services caused long-term resentment that harbors ethnic violence.

This raises two subsidiary questions: First, how does ethnic politicization create the conditions favorable for tribalism to flourish? Secondly, how does ethnic profiling or rather tribal stereotypes by political leaders lead to social stratification in the political economy of the country? Many political analysts and African scholars have attributed the saliency and persistence of “tribal stereotypes” to the nature and uniqueness of African politics (Mamdani (1976), Anyang Onyango (1987), and Moses Onyango (2010)). To deal with this issue, I will now provide empirical evidence from the Kenyan situation using two theories: primordialism and instrumentalism.

The role of ethnicity intensified through the state patronage system. In this regard, a constructivist perspective on ethnicity would strongly argue that Kenyan politics has predictably revolved around ethnic coalitions to win competitive national elections. Kagwanja (2010) identifies three party types in Kenyan politics: the mono-ethnic party, the multi-ethnic alliance type, and the multi-ethnic integrative type. According to him Kenyan parties have increasingly incorporated diverse communities, yet they have consistently failed to bridge the country’s dominant ethnic cleavages (Kagwanja, 2010, p. 7). He proves his point by demonstrating how the four major ethnic groups have consistently developed diverse political ideologies and systems that reinforce the existing cleavages rather than real multi-party coalitions. In essence, the ubiquity of multiethnic party coalitions reflect the demographic reality that Kenya is a country of ethnic minorities as opposed to the clear burification in countries like Rwanda and Burundi (Kagwaja, 2010, p.8). Since colonial days, political tribalism and inter-ethnic struggle for control over the state has revolved around the Kikuyu, Luhya, Luo, and the Kalenjin groups. Because of the dominance of these four tribes at the national political stage, the vast majority of

the other thirty eight Kenyan groups and racial minorities oscillate between moral ethnicity⁴ and political tribalism. In most cases, the “other” marginalized groups, often smaller in size, are mobilized into one of the political alliances of the larger four political tribes during elections. In fact, marginalized ethnic groups in Kenya have rarely produced a successful presidential candidate for general election. In situations where candidates from minority ethnic groups are able to gain popularity, the state uses the candidate’s popularity to falsely convince the citizens that indeed democratic procedures are engraved in the constitution.

Another way in which political parties in Kenya mobilized and pursued their interest as ethnic blocs is through post-colonial land redistribution patterns. The land redistribution system after colonial rule created historical injustices as some groups were left marginalized from access to their ancestral land. Grievances over unequal land distribution are an important instrument for ethnic and class disparities and rewards. Kenya’s ethnic fractured system has roots in how the colonial administration sought to address the land question. The reforms pursued through the settlement schemes and the land purchased programme ethnicized the land question and laid a firm foundation for political violence in 2007 (Kanyiga, 2010, p.74). The colonial administration’s approach was not prompted by the general need to resolve landlessness but aimed at obtaining a stable economic foundation and ensuring that white settlers obtained the best return from their sale of land. This being so, the administration had to satisfy Kikuyu because they were the most dangerous land-hungry constituency. Giving preference to the Kikuyu in the resettlement effort led to antagonism with other communities, such as the Kalenjins.

⁴ Primordial attachment

The balkanization of certain areas such as the Rift Valley has contributed to this historical injustices. In order to secure their property native communities such as Kalenjin and Kikuyu have intentionally sold land in their possession to members of their own ethnic group in an effort to balkanize the region and avoid domination from ‘outside’ groups. This form of ‘selective discrimination’ has created feelings of ‘superiority and inferiority’ among some ethnic groups as well as exacerbating the inter-ethnic relations in terms of political and economic considerations.

The Kenyatta era (1963-78)

On the eve of independence, land bought from the white farmers was sold to state owned ventures and to wealthy African families, including the Kenyatta family. According to Sang (1997), large scale ranches amounting to over fifty thousand acres of land were bought by the Kenyatta family. The ranches include Gicheha, Tangi Sita ranch, and Mugie Limited. From 1974 up until his death in 1978, Kenyatta appeared to be forging an economic aristocracy and a ruling dynasty drawn from his immediate and extended families and a political family of Kikuyu loyalists from his home district of Kiambu. According to Miller and Yeager (1994, p.51), Mama Ngina, Kenyatta’s second wife, acquired substantial wealth that encompassed large tracts of uncultivated and agricultural land, as well as business ventures in road transport, the ivory and wildlife-trophy trade, and mining. Other high ranking officials followed suit, including the permanent secretary in the Ministry of Lands and settlement. Land grabbed from pastoral groups half a century earlier ended up in the hands of political elites, who later redistributed the lands to members of their own ethnic groups and partially to Mau Mau freedom fighters. Former Mau Mau combatants were given priority to settle in the Rift Valley “as a reward for their contribution to independence”, but more importantly to avoid Kikuyu unrest over land dispute (International Crisis Group, 2008, p.7). Nonetheless there is still a large group of Mau Mau

veterans and their descendants that never received any land. Land was also used as a resource to buy the support and votes of allies and co-ethnic coalitions as a reward for their loyalty. In most cases, the new tenants did not have any primordial connection to that piece of land, instead they used the land as collateral for accessing private loans to improve their social status. The concentration of land in the hands of a wealthy minority, particularly among the Kikuyu political elite, left the majority of Kenyans with bitter resentment. Similarly, the new land policies neglected the rights of native communities over their ancestral homes, resulting in inter-ethnic conflicts. Ironically, such systematic marginalization was instigated and authorized by the political elite and state bureaucracy despite their allegiance to serve the nation-state.

According to Moses Onyango, Kenyatta's government inherited and embraced the entire colonial economic system, including the concept of 'willing buyer, willing seller', imposing taxes, 'modernization' and alienation of indigenous African communities from their native homes (Nyawalo, 2011, p.36). Kenyatta's government supported and acknowledged the existence of Kikuyu banks, using Kikuyu lawyers and businessmen as a stepping ground for privileged Kikuyu to acquire land from the departing whites under a subsidized scheme. Privileged Kikuyu members were re-settled in large numbers in previous 'white highlands' of Rift Valley, while the claims of the previous dispossessed ethnic groups such as the Kalenjin and Masaai was completely disregarded. The Masaai and Kalenjin initially thought they had been only temporarily displaced by the whites. Upon realizing the intent of the patrimonial government, they began a series of claims against the state. This was the genesis of 'ethnic animosity' based on land policies in Kenya. On the other hand, the Kikuyu who settled in the Rift Valley were aware that such policies were unfair to native communities. Nonetheless, they continued to reside in the land since they bought it under 'legal terms'. Other Kikuyu elite

argued that they deserved the land because their community suffered the most from colonial oppression (Kanyiga, 2010, p.68). They argued that Kenya became an independent African state thanks to the uprising and resistance of their people –the Mau Mau freedom fighters, since their community rose up against the oppression of the white settlers. However, this was not entirely true given that many Kikuyu political elite betrayed their community by collaborating with white settlers and missionaries against the poorer Kikuyu Mau Mau freedom fighters. The repercussion of Kenyatta’s land policy recurred in various post-colonial uprising by marginalized ethnic communities including the Likoni clashes in 1997 and the dissemination of *madodoa* policy in post 2002.

In the post-colonial era, numerous politicians strategically disseminated the ideology of “*madoadoa*” throughout the nation to intimidate and possibly evict immigrant minority groups that posed a threat to the constituencies through their vote power. Members of minority groups residing in cosmopolitan regions such as Rift Valley were politically and socially excluded as social outcast. *Madoadoa* is a Kiswahili term that means “spots” or “stains;” it is often used as a metaphor to refer to immigrant communities (Kagwanja, 2010, p.55). Politicians suggested that ethnic minority groups with different political opinion from the larger society ought to be “evicted”, “expelled” or even “killed” so as to eliminate stains. Examples of such minority groups included newly resettled ethnic communities (Kikuyus) in cosmopolitan areas such as Rift Valley by the state through the land resettlement programme. Rift Valley had traditionally been home to Kalenjins, Maasai and Turkana communities. The *madodoa* phenomenon was later stretched nationally to refer to other regions in the country, which were perceived to be opposition strongholds especially in the national politics up to 2003. Such manifestations of neo-patrimonialism was a reflection of Kenyatta’s regime. During Kenyatta’s era the provincial

administration under the Office of the President illegally and disgracefully evicted opposition sympathizers from their ancestral homes. Rift Valley and Coastal province were prime sites of such injustices.

Under Kenyatta's government there were numerous political assassinations and fall outs along ideological lines that is worth discussing. In the latter half of 1960s two major groups were formed. The radicals under Vice President Oginga Odinga and Bildad Kagia supported the East while moderates like Tom Mboya (Minister of Economic Planning) followed the West. The two groups disagreed on land tenure rights, land distribution and compensation for Whites among other issues. A state-managed election was later formed to settle the dispute. However, Oginga lost his seat. Oginga then formed an opposition party known as Kenya's People's Union (KPU), but he was detained along with his top officials (Kagwanja, 2010 p.54). His detention and the mysterious assassination of Tom Mboya in 1969, one of Kenya's most prominent Luo leaders, who was regarded as the political heir of Kenyatta, caused an uproar throughout the country. In response, Kenyatta decided to amend the constitution. KANU was placed 'above the law'. The dissatisfaction of the masses continued despite the transfer and grabbing of farm land and public resources by influential individuals.

All in all, Kenyatta's era caused wide spread dissatisfaction. Under economic hardships of 1973 (oil based world recession), Kenyans of all ethnic affiliations, less tolerant of his public display of nepotism, began criticizing his regime. In a similar fashion, Tom Mboya and Josiah Mwangi Kariuki, a flamboyant Kikuyu MP, challenged Kenyatta's kikuyu power base. David Throup and Charles Hornsby (1998, p.33) suggested that 'tribalism' in Kenya is a natural phenomenon given the diverse ethnic differences and the deep-seated divisions stemming from primordialism. M.Rutten & Owuor (2010), on the other hand, proposed a different view.

According to them, power hungry leaders such as Kenyatta stirred up tribal sentiments when they found it convenient to do so. Their aim was to divert the attention of the masses from the “real dynamics at work –the emergence of rapacious bunch of mercenaries whose own class interest transcended ethnic bounds” (Kagwanja, 2010, p.54). Politicians and businessmen often acted as leaders of ethnic land-buying companies in a bid to enhance their social status instead of support poor families such as Kikuyu peasants and Mau Mau freedom fighters.

The Moi single party era (1978-92)

Subsequent regimes after Kenyatta’s government, particularly Moi’s single party era, witnessed a similar form of neo-patriotism, politics of exclusion, and most importantly the emergence of state violence. Following the footsteps of Kenyatta, Moi built his power around smaller ethnic groups which nurtured Kalenjin ethnic nationalism just as Kenyatta had done to Kikuyu nationalism. As a result, Kalenjin’s believed it was indeed their turn to ‘eat’ and exploit the opportunities that come with political power (Wrong, 2009, p.81). Moi targeted Kikuyu capital by closing down Kikuyu owned banks which he perceived as a threat to his political dominance. The Kikuyu elite blamed Moi for the economic problems in the coffee industry, tea factories and Kenya cooperative creameries in central province.

Nonetheless, Kikuyu continued to dominate in non-political spheres such as the transport business, hotel, and real estate and so on. The rise of nepotism and ethnicization of power provoked Kikuyu elite and other marginalized communities to attempt a coup d’état in 1982. However, the coup failed, which in turn increased ethnic animosity particularly between the Kikuyu, Kalenjin and Luo. Moi favored the Kikuyu less, and increased his support for Kalenjin elite. However, Moi realized that the numbers favored the Kikuyu (22%) compared to his ethnic group –Kalenjin’s (12%), which is an important aspect of multiparty politics (Kagwanja, 2010,

p.87). As a result, through the *madoadoa* policy, Moi's regime fostered land clashes in the Rift Valley that mainly targeted Kikuyu as 'foreigners' in the region. For the remainder of his single party era, Moi supported Kalenjins through education opportunities and lucrative jobs in government.

Moi Multiparty era (1992-2002)

The advent of multiparty politics from the middle of 1990 was characterized by state violence mainly in Nairobi and other urban areas where the populace demanded the release of Kenneth Matiba, Raila Odinga and Charles Rubia who advocated for multipartyism and democratic rule (Kagwanja, 2010, p.55). KANU politicians also revived *majimbo* discussion which centered on the return to ancestral home as opposed to devolution of power (Mutua, 2010, 79) Immigrant communities in cosmopolitan regions were asked to vote wisely if they wished to remain. Between 1992-1997 several ethnic conflicts erupted based on land, ethnicity and political differences. In fact, the year 1993-1999 various institutions were erected, in an effort to investigate the existence of politically motivated ethnic. Among these were "the Kiliku Committee, the Government Standing Committee on Human Rights, the Law Society of Kenya and a Judicial Commission of Inquiry also known as "the Akiwumi Commission" (Rutten and Owuor, 2010, p.56) Unfortunately, the reports generated by the various institutions reported that more than 6,000 individuals were killed in ethnic clashes between 1991-98 (Kagwanja, 2010, p.56) Yet, no action has been taken regarding the matter. (Kagwanja, 2010, p.56) As a result, aggrieved families and marginalized minorities continued to harbor grievances from such politically instigated clashes.

In summary, the existing societies of pre-colonial Africa had complex political and administrative structures that sustained the community's dynamic relations both internally and externally. The political and administrative structures were based on the lineage system to demarcate the social identifications such as allegiance and social relations. In post-colonial Africa, ethnicity became not only a basis of political support but also political marginalization of ethnic groups. The antagonism between dominant versus subordinate ethnic groups stemmed from various factors including the impact of colonial intrusion on state and market relations. Ethnic antagonism intensified in post-colonial era as opposed to colonial era because the struggle for independence outweighed ethnic divisions. In the new political order, that is post-colonial state –religious, racial, and tribal groups competed for state resources such as schools, roads, and civil service jobs. Furthermore, rural-urban migration exacerbated the existing antagonism because previously isolated ethnic groups came into close proximity with each other, for the first time. The modernization process accelerated under post-colonial regime, and the spread of higher education did not generate greater harmony as anticipated by Eurocentric scholars. Instead, modernization process produced ethnically chauvinistic professionals and intellectuals, who became the ideologists of ethnic hostilities. These ideologies were later transformed and intensified under the banner of “tribal stereotypes”.

3.3 Land Question as the Matrix of Political Conflict

The Land Question does not consist of just a single issue but of several issues, each of which has its own components. These include (1) land use and agrarian production; (2) population growth/movements and changing settlement patterns; (3) class formation; and (4) ethno-regional identities. These individual issues have become embedded in the larger and continually changing socio-political and economic structures. This dynamism, in turn, affects the

content of the Land Question. The Land Question, therefore, cannot be reduced to a single issue and solution. Nor is the reform of the land tenure system and its relation to agricultural production and/or land use the only important consideration.

The reform programme was introduced in response to a growing economic and political uprising in the “African native reserves” that were created by the colonial administration government in an effort to alienate and preserve lands for settler agriculture. The rapid spread of the Mau Mau peasant resistance movement culminated in a deepening political crisis. The colonial state initially believed they could contain the natives through the introduction of land individualization. It was also assumed that the transformation of customary tenure would lead to increased agricultural production in the reserves and, thereby, weaken the ideological bases of the peasant resistance movement. However, contrary to the expectations of the colonial authorities, the land reforms opened the door for more problems rather than solving the existing issue. The land reform system generated more disputes regarding ownership of land and resulted in a more skewed distribution of land. It also produced and reinforced ethnic-based interests in land, and made the Land Question more complex than ever.

The post-independence government retained the colonial land laws and pursued the same land reform objectives without necessarily modifying the system. In spite of the complex issues that developed around it, the land policy did not change (Republic of Kenya, 1965). Policies tended to emphasize optimum land utilization and presumably “equitable redistribution.” This led to the neglect of inequalities in land ownership, one of the most important dimensions to the growing socio-economic inequalities in Kenya. This situation persisted, even though large tracts of under-utilized and/or idle land existed, including in high potential agricultural belts such as the former White Highlands (Kanyiga, 2010, p. 66). Apart from the land reform policy, land

market and political patronage have continued to be pre-eminent factors in regulating access to private and public land. With regard to public land, granting of rights tended to be linked to concerns about procuring and maintaining political support, particularly in Kenyatta's regime.

The economic constraints that the country has been experiencing since the late 1970s have also had an equally important role in shaping the diverse context of the Land debate. Although Kenya's economy grew tremendously in the '60s, the oil crisis of 1973 and the subsequent drought of 1974 set the country on the path to an economic recession (Kanyiga, 2010, p.72). Alongside a deteriorating economy, there was also change in the class and ethnic content of politics. For example, Moi ascended to the presidency in late 1978 after the death of President Kenyatta, who had already established a tight patronage network that rewarded some of his cronies with public resources –the former settler lands. In effect, Moi had to construct his own political support base. This he did through deconstructing the constituencies established by his predecessor. But Moi's support base rapidly declined with the spread of the country's economic difficulties. To retain support, Moi opted to rely extensively on direct forms of political patronage (Kayunga, 2010, p.74). Public economic institutions, especially state-owned corporations were tasked with providing resources for this purpose. The focus soon shifted to land in the prime areas of the coast where the tourism industry was booming in terms of providing the country with foreign exchange. On the other hand, traditional agricultural commodities began declining. As a response mechanism, land was given to maintain or expand patronage networks and to get support from different sections of the political elite. This had the effect of making them indifferent to the spreading political and economic crisis ravaging the country. Those who obtained these grants, especially in the coastal belt where there is land suited to tourism, generated capital for investments in the growing urban real estate, insurance and

financial institutions. Meanwhile, the re-introduction of multipartyism in early 1992 was accompanied by the reactivation of ethnic-based interests in land (territorial claims) which led to intense ethnic conflict among several groups. The overall result for Kenyan society was class and ethnic marginalization and political frustration of the marginalized.

CHAPTER 4: MARGINALIZATION AND ELECTORAL VIOLENCE

This chapter discusses the empirical findings about electoral violence. On the basis of chapter three, I will focus on three main variables of marginalization in order to verify my main research hypothesis.

4.1 Human Geography of Electoral Violence

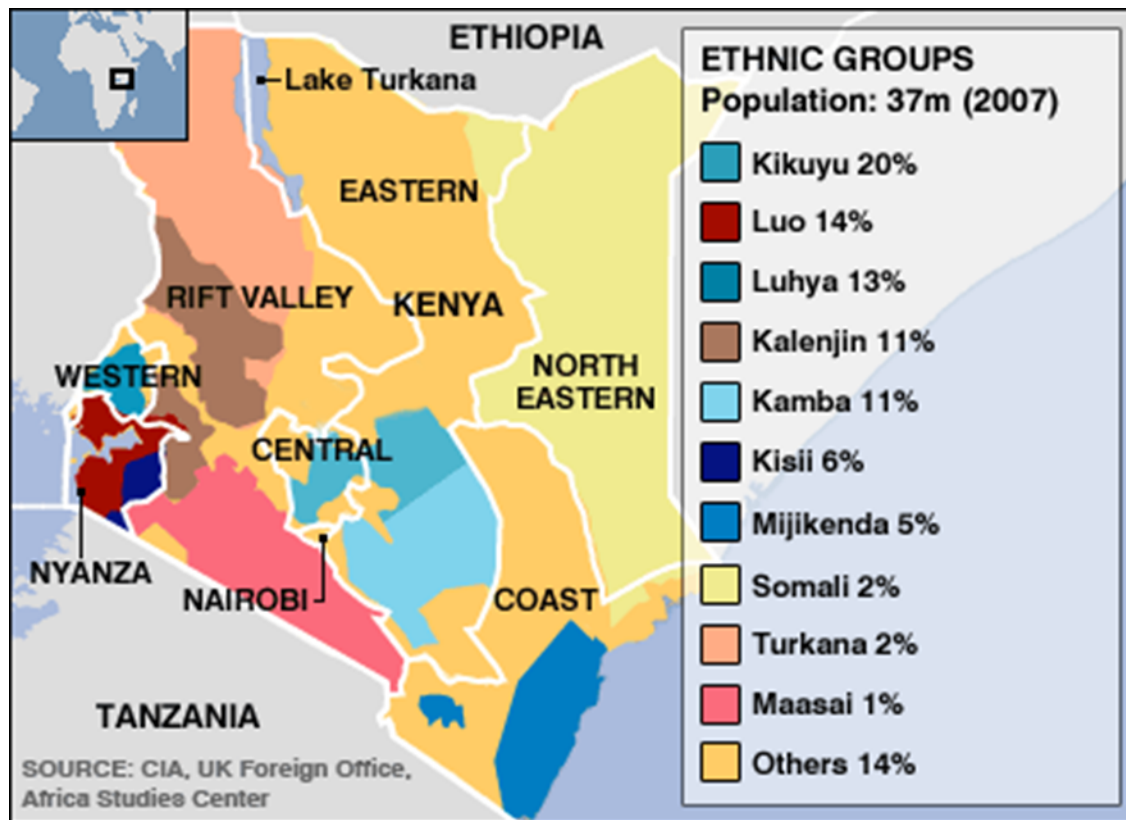
What are Kenya's demographic makeup and political geography, which constituted the background to the 2007-08 crisis? Kenya, officially the Republic of Kenya, is a country in the African Great Lakes region of East Africa. Its capital and largest city is Nairobi. Kenya lies on the equator with the Indian Ocean to the south-east, Tanzania to the south, Uganda to the west, South Sudan to the north-west, Ethiopia to the north and Somalia to the north-east. Kenya occupies a total of 582,650 km², an area twice the size of Nevada and slightly larger than France. Its population had jumped from 8.5 million at independence in 1963 (Leys, 1975, p.40) to an estimated 38 million people in 2008. Kenya is considered the economic powerhouse of East Africa and remains a country of major importance within the African continent.

Kenyans are an inherently agrarian society, which means that land is very important (Adebayo, p.147) Competition for land among Kenya's 42 ethnic groups, including the Arabs and a small white and Asian population, is accentuated by the fact that over 80% of the land is either arid or semi-arid, and over 75% of the population is concentrated in the remaining high potential agricultural belt that runs north west from Nairobi to the Ugandan border (Adebayo, 2012, p.140).

The majority of the country's workforce is engaged in agriculture, hence the over-reliance on land. However, the diminishing land opportunity in rural areas, particularly the agricultural belt (Rift Valley), has engendered migrations to urban areas in search for jobs and better standards of living by the largely unemployed young people, who comprise 60% of the population. The demographic growth of the youth stratum (15-35 years) expanded the electoral register by 6 million to nearly 14 million voters (Kagwanja, 2010, p.4). This increase in the proportion of younger voters turned general competition into an important axis in electoral politics.

The geographical features of the Rift Valley are unparalleled in most parts of the world. The highlands provide adequate rainfall for farming and agriculture, which is the economic base of the Rift Valley people. The region has other important geographic features such as the extinct volcanoes Mount Longonot and Mount Suswa, in addition to Lakes Baringo, Bogoria, Magadi, Nakuru and Naivasha amongst others. The Elgeyo Escarpment is a major tourist attraction in the province. However, agriculture, not tourism, is the Rift Valley's economic flagship. Tea estates are lush in Kericho District. In addition, the horticultural sector is fast growing, providing extra economic empowerment in the Rift Valley. Cattle rearing and other forms of animal husbandry are also practiced to a large extent here. The economic potential of the Rift Valley is immense and remains to be fully exploited. Apart from horticulture and tea plantations of which Kenya is a main leader in the world market, tourism industry is the second highest foreign exchange earner. However, the violent clashes of 2007 adversely affected both sectors as workers were displaced from the fields and foreign advisors urged their citizens to refrain from traveling to the country (Adebayo, 2012, p.140).

The major stakeholders in the elections and post-election violence include the political parties, religious institutions, ethnic groups, youth, land squatters/owners and the demographic distribution of resources. The three main tribes involved in the 2007 post-election violence were the Kikuyu's, Luos and Kalenjin. However, other ethnic groups were also heavily affected by the violence. The Kikuyu with their ancestral homeland in Central and Eastern provinces, constitute the largest of the groups, they are only about 22% of Kenya's nearly 38 million people, although the old map below indicates 20%. Next to the kikuyu are the Luhya (14%), located mainly in Western Province. (Adebayo, 2012, p.145). The Luo (13%) mainly inhabit the Nyanza Province followed by the Kalenjin (12%), who mainly reside in the central and northern parts of the Rift Valley. The Kamba (11%) live in the South Eastern Province, the Kisii (6%) in Nyanza and the Meru (6%) in Eastern Province (ibid, p. 147). The remaining ethnic minorities constitute the marginalized communities in Kenya. These include communities found in the North (Turkana, Pokot, Oromo) and those in the North East i.e. Rendille and Somali. The Swahili/Arab communities in the coast of Kenya are also considered marginalized because most of its sub-ethnic groups such as the Mijikenda, have remained impoverished despite the booming tourist industry in the Coastal Province. The Maasai in the South are also considered marginalized communities due to their small population as well as limited resources.



Besides valuing land and their ethnic groups, Kenyans, like many Africans, are deeply spiritual and value their faith and traditions. Kenya is a predominantly Christian society, with 45% being Protestant and 33% being Roman Catholic. Islam is the second largest religion in Kenya and is practiced by about 11% of the total population (Adebayo, 2012, p.150). Other faiths practiced in Kenya include Hinduism, traditional religion and Baha'i. With the majority of Kenyans attending church, the church can and does play a key role in politics. The Church's role in politics stems historically from the way in which British used Christian missions to penetrate communities and spread the Christian gospel intertwined with British culture (Adebayo, 2012, p.146). During this colonial era, the church was intimately tied to politics. The Catholic and Anglican Church were fundamental in the movement for constitutional reform following the 1992 elections.

4.2 The making of a crisis

4.2.1 Political marriages and separations of convenience among potentially antagonistic ethnic groups from 2002 to 2005 referendum.

In the run-up to the 2007 election, Kibaki led the Party of National Unity on a platform highlighting the country's economic growth. The motto *Kazi Idendelelee* (work continues) emphasized the road to economic recovery and prosperity (Kagwanja, 2010, p.3). While Odinga led the Orange Democratic Movement promising constitutional change and more effective anti-corruption measures. A new constitutional order, devolution and equitable distribution of resources were presented as the agenda for ODM term in power. Equally, ODM portrayed itself as a coalition that defends the poor and the weak from neo-patrimonial politics of exclusion that had shadowed Kenya's post-colonial politics from Kenyatta's government to Moi and subsequently Kibaki. ODM publicly stigmatized "Mt.Kenya Mafia" as corrupt politicians and businessmen who had betrayed the 2002 reform agenda under the NARC government. Both, parties PNU and ODM, used subtle and not so subtle forms of ethnic polarization and fear of ethnic domination or displacement to mobilize support.

Kibaki's first administration (2003-2007) witnessed a stunning success in economic recovery as growth rose from 3.4% in 2003 to 7% in 2007 (Kagwanja, 2010, p.6). In comparison to his dictatorial predecessor Jomo Kenyatta and Daniel Arap Moi, Kibaki's administration managed to lower the poverty level from an estimated 56% in 1997 to 46% in 2006 (Ibid, p.6). On the other hand, per capita income rose for the first time since the 1980s (Kagwanja, 2010, p.6). Kibaki's government fostered macro-economic discipline. Deficit spending was reduced, the business environment improved, more state-operated enterprises became privatized, and the government attracted substantial new investment especially from China. The steady 6% growth

rate during the second half of Kibaki's tenure allowed Kenya to become financially self-reliant. New projects funded included free primary education and the creation of Constituency Development Funds (CDFs). Providing free Primary Education was one of Kibaki's strong points.

Some analysts have argued that despite the increase in gross domestic product, income inequality among the social classes continued to widen. In essence, the growth was only benefited by those in power, multinational corporations and business tycoons. The ordinary "mwanainchi" continued to experience lower living conditions. Moreover, the economic record in GDP was not matched by an equally robust political stewardship. As mentioned above, corruption and cronyism continued to manifest in government offices. The legal and institutional framework erected by the government was not successful in combatting corruption. Instead, the institutional frameworks, such as electoral commission, the administration of the police, and particularly the judiciary system became largely impotent. The record of prosecuting and convicting high-level corruption, such as the Goldenberg⁵ and the Anglo Leasing⁶ scandals proved to be ineffectual (Murunga, 2011, p.15). The NARC government failed to stamp out mega corruption as well as state violence through youth militia groups. The 2007 election took place against the background of meteoric growth in the Kenyan population. Deepening poverty, widening inequality between the political class and the masses, and youth unemployment.

⁵ The Goldenberg Scandal, is the longest running case of massive high level corruption in Kenyan history. Kamlesh Patti, a businessman, reportedly devised a scheme in which his company, Goldenberg International Ltd, was accused of exporting gold and diamonds worth hundreds of millions of dollars. This fraudulent scheme defrauded the government of public funds. Hundreds of millions, if not billions, of dollars were stolen. The case has not been settled to date (Mutua, 2001, p.100).

⁶ Anglo Leasing scandal is another major corruption undertaken by high-ranking officials in Moi's government. It involved government funds being used to pay "shadowy" foreign companies for services ranging from forgery-proof passports to naval ships and forensic laboratories (ibid, p.100).

Another aspect of the background to the election was the political tension arising from the disintegration of the ruling coalition NARC and the defeat of the constitution in the November 2005 referendum (appendix:interview). The 2005 referendum broke into two main components –Odinga’s ODM party was formed based on a “No” vote while Kibaki’s NAK party supported a “Yes” campaign (Lafargue, 2009, p.38). The “No” vote stood for the amendment of the constitution, the reduction of executive power, the reinforcement of parliamentary control over government, the supervision of judicial independence, and the decentralization of central government responsibilities. Kibaki and his coalition –National Alliance of Kenya (NAK) led the “Yes” campaign, which supported the continuation of the Kenyan constitution (Kagwanja, 2010, p.4). The Yes campaign suffered a significant defeat in the referendum as ODM won on a margin of 58.3% against 41.7% -which was viewed as a vote of no-confidence (Kagwanja, 2010, p.4). ODMs victory in the 2005 referendum made ODM leaders and party supporters confident that 2007 election would equally be a victory. However, ODM faced challenges in the coming months as Kalonzo Musyoka broke-away from the ODM coalition forming his own presidential party under an ODM-Kenya ticket. These political marriages and separations of convenience among potentially antagonistic ethnic groups set the background to the political tension that broke-out in post-2007 election.

4.2.2 Poll surveys and Propaganda

Several factors probably contributed to the erosion of Odinga’s lead in the polls. PNU aggressively attacked ODM on its *majimbo* agenda, in addition PNU publicly attacked ODM leadership and particularly Odinga’s primordial ethnic practices of circumcision. PNU leaders’ subtly referred to Odinga as “uncircumcised boy” which had immense implication on his personal character and leadership. This propaganda appealed to members of the Bantu

communities, who viewed circumcision as a vital social value, often associated with cleanliness and respectability. Arguably, this strategy enabled PNU leaders to garner support from Kikuyu and other Bantu communities –GEMA ethnic groups in particular –from poor background and migrant communities in Rift Valley (Ahlberg, 2013, p.15)

The polling surveys conducted by various research industries in the run-up to the elections achieved considerable reaction from members of the political class, citizens and international community at large. The polling experience in Kenya's 2007 election warrants attention for several reasons. First and foremost, more polls were conducted in the run-up to 2007 elections by more firms than in any other previous pre-election period (Wolf, 2010, p.21). Secondly, media coverage of poll surveys made it difficult for key political actors to ignore poll results, thus ensuring that they became central subjects of the campaigns. Apart from presidential contestants (Kibaki, Raila, Musyoka) the polls were also taken seriously by political campaign strategists and especially voters. As a result, the prominence and general acceptance of the pre-election polls made it likely to remain a fixture in Kenyan public life (Wolf, 2010, p.21). In what follows, I will discuss the role and implication of poll surveys in Kenya's post-2007 election violence. To do this, I will divide my discussion into two lessons; the first lesson focuses on *pollution versus political opportunity*, while the second focuses on *expectations and violence*. Each had a long-term effect on the country's political culture.

With the return of multiparty politics in 1992 various research firms, both domestic and international opinion surveys, began to sprout. The full blossoming, however, awaited the departure of autocratic President Daniel Arap Moi in 2002 (Kagwanja, p.22). Some of the companies that emerged include: Strategic Public Relations, Infotrak-Harris, Consumer Insight, and the famous Steadman group that later became Synovate –a leading international market

research firm (Wolf, 2010 p.22) These research industries provided legitimacy to political pluralism by allowing frequent expression of competing views on leadership preference and policies. More importantly, these surveys allowed marginalized communities from various backgrounds in Kenya to voice their opinion on the matter.

Lesson one: ‘poll-ution’ versus political opportunity –refers to the idea that election-related polls constituted a threat to the Kenyan political class because it gave a voice to the inchoate –and thus a largely silent –public. Such a platform allows Kenyans, particularly those from rural areas, and from “marginalized” communities to express their satisfaction or dissatisfaction regarding their living conditions and their aspirations from suitable political candidates (Wolf, 2010, p.24).

Lesson two: expectations and violence. In the aftermath of the post-election crisis two key issues were raised with regards to direct causal link between opinion polls and political violence. J.Gathongo, a political analyst suggested that in the event that opinion surveys were never carried out and distributed by leading media houses, then perhaps ODM would not have seen the need to contest the results nor would they resort to large scale violence as the case of 2007. But because the results from pre-election opinion polls created an impression that Raila Odinga would win the forthcoming election through a “Yes” (orange) ticket, it made it even more difficult for ODM partisans to accept the results without pointing out the anomalies in vote-tallying (International Crisis Group: Kenya in Crisis (2008) Africa Report N°137). The flawed performance of ECK was viewed on live television, which in turn gave ODM supporters more reason to challenge the results. Another aspect of the poll is that it split the entire nation into two antagonistic camps –Yes (orange) versus No (banana). The bilateral nature of the division equally fostered ethnic animosity as the two leaders came from historically antagonistic

ethnic groups. Opinion poll figures contributed to a frenzy, making the election a close call. Eventually the high stakes in the election combined with the extreme competitiveness provided a breeding ground for the riots to occur. Each camp, believed they were right and each camp wanted to belong to the winning side. That is why Kibaki hastily took the oath of office, while Odinga refused to challenge the results in courts, stating that he will “take the case to the courts of public opinion” (Washington Post Foreign Service, 31 December 2007)⁷

As indicated earlier, opinion polls were taken seriously by all stakeholders –voters, political campaign strategists and even presidential candidates. Opinion polls encouraged more informed bargaining between the key players before Election Day and more strategic choices by Kenyan voters. When campaign battle lines are intense, underlying socio-economic grievances exist, and the integrity of the electoral commission is subject to doubt, close results such as the 2007 elections are more likely to be rejected if they fail to replicate or at least reflect the pre-election opinion polls (see appendix- respondent 3). My argument therefore is that opinion poll surveys did indeed influence the voting pattern, and they also contributed to the political tension by increasing the risk faced by the key players.

The second issue about expectations and violence is therefore whether the polls had convinced Kibaki and his team that rigging was the only way in which they could win the election (Wolf, 2010, p.33). However, I do not consider opinion polls among the proximate causes of the violence itself. In any case, even if the opinion polls were not published by research industries in the pre-election period, I believe that the violence may have still occurred, if the spontaneous reaction by the masses against the perceived rigging of election is an indicator at all.

⁷ "Incumbent Declared Winner in Kenya's Disputed Election." *Washington Post*. The Washington Post, 31 Dec. 2007. Web. 09 Apr. 2015 <http://www.washingtonpost.com/wp-dyn/content/article/2007/12/30/AR2007123002506.html>

The people were angered by the flawed performance of ECK –an independent electoral commission that was responsible for overseeing a democratic transition of governance.

A few months after the post-election violence Kenya's major survey firm, the Steadman group now known as Synovate, released controversial results on how opinion polls may or may not have contributed to the violence. According to the Social, Political, Economic and Cultural Barometer (SPEC), 69 percent of Kenyans were aware of at least some opinion polls. Additionally, more than half (58 per cent) stated that they thought these polls had influenced their voting in one way or another. Some used the opinion polls to get a better idea of their preferred party and candidate's chance of winning. Others stated that the polls encouraged or discouraged them from contributing to the campaign as spokesmen or even not voting at all.

4.2.3. Majimboism as politics of exclusion

Apart from the disintegration of the ruling coalition NARC and the defeat of constitution in November 2005 referendum, *Majimbo* is arguably the third factor that caused political tension in the run-up to election. As already indicated, *Majimbo* is a Kiswahili terms that signifies “devolution”. However, some political analysts and scholars, including Makau Mutua, have argued against *Majimbo* policy as a form of ethnic cleansing rather than implied “federalism” (2008, p.190). In the pre-election period, ODM resuscitated the *Majimboist* debate with regards to federalism and land policy. ODM strategically used *Majimbo* policy to mobilize the support of marginalized ethnic groups such as Kalenjin and Swahili in Coast Province. The *Majimbo* campaign tapped on the emotional sentiments of “exploited” groups who yearned for regional autonomy. ODM managed to accumulate huge support from Rift Valley and Coastal province based on this policy (Kanyinga, 2010, p.70). However, they did not provide a deeper understanding of what this policy would involve. To the local residents in Rift Valley, *Majimbo*

system evolved to imply eviction of communities that had settled in that area during and after the colonial period. To Kalenjins and Mijikenda communities *Majimbo* simply meant getting back the pre-colonial land which they were primordially assigned. However from a policy point of view, ODM propagated *Majimbo* system as a policy of devolution that allowed people to make decisions on matters about their region. Understandably, this argument was attractive to marginalized communities that lost their land to dominant immigrant communities. Nonetheless, PNU accused ODM of fomenting ethnic cleansing of migrant communities under the guise of *Majimbo* (Kanyinga, 2010, p.80). PNU members viewed *Majimbo* policy as a threat to national cohesion because it promoted “othersim” by eliminating “non-natives” and “non-belonging” ethnicities. To a large extent, majimboism was an extension of madodoa policy which sought to create ethnic animosity in the form of hate speech. According to PNU, *Majimbo* policy would lead to the eviction of hundreds of people from certain regions on the basis of historical claims to territories (Kanyinga, 2010, p.80). Orange movement tried to dissociate itself from the violent and ethnic chauvinist stigma attached to the *Majimbo* debate, but also knew the confusion would rally maximum support among the Kalenjin, Maasai, Turkana and Samburu (commonly known as KAMATUSA) communities (International Crisis Group: Report N°137, 2008, p.17). When the electoral conflict broke out the implication of *Majimbo* policy was witnessed in Rift Valley province, where Kikuyu families were evicted from their landholdings forcefully. All in all, the outbreak of the violence in Rift Valley was framed in terms of a discourse on territorial claims. The Kalenjin’s believed they had a primordial right to Rift Valley as their “ancestral home”, while the Kikuyu claimed to have individual property rights. Many of the Kikuyu who were evicted became internally displaced people (IDP) despite having title deeds to their land. In fact, they did not place any political claims on the land they owned (Rift Valley); instead, they

considered that their title deeds conferred absolute ownership. Conflict between individual property rights and group territorial and political claims rapidly accentuated the conflict (Kanyinga, 2010, p.81) Hateful discourse by the political class through the state machinery created resentment that slowly built up and exploded after the electoral fraud occurred.

4.3 Electoral Fraud

The December 2007 general election was the fourth that the country had conducted since the re-introduction of multiparty democracy in November 1991. Few expected Kenya to explode into violence as nearly 14 million registered voters went to the polls on 27 December 2007 to elect a president and 210 parliamentarians in the latest multiparty election. Then electoral fraud occurred.

Electoral fraud essentially involves the introduction of bias into the administration of elections. It can take place at any stage of the electoral process, from voter registration to the final tally of ballots. It covers such activities as forging voter ID cards, burning ballot boxes or padding the vote totals of favored parties and candidates. According to Thad Hall, Michele Alvarez et al. (2008, p.3) electoral fraud can be defined as “systemic manipulation of domestic legal provisions and/or electoral rules and procedures that run counter to widely accepted democratic principles and international standards, and that purposefully distort the will of voters”. It is clear from this definition that electoral fraud violates the principle of democratic equality. Invariably, such a breach of democratic principle has immense implications for a new developing state like Kenya. In Kenya successful rigging of elections and electoral fraud has culminated into corruption of democracy at the state level. This is because electoral fraud involves various personnel and government officials to carry out.

Ultimately such corruption introduces the concept of ‘moral economy,’ which legitimizes the inequalities in the distribution of values. By and large, moral economy categorizes all human communities through principles of redistribution and reciprocity of obligations between rulers and ruled, rich and poor in specific social contexts. This concept reinforces the practice of colonial clientage involving reciprocal but unequal relationship between ‘big men’ and ‘small boys’ (Russell, 2000, p. 5). Those who breach the principle of democratic rule in elections through electoral fraud or irregularities do the same. Similar to former European officials, post-colonial African elite have used “corruption” at the electoral level to reward those who are loyal to them by giving them access to state resources in exchange for favors such as vote buying and irregularities. Voting irregularities are also within the scope of fraud, because they change the election result.

In the case of Kenya, electoral fraud was manifested through vote buying, ghost voting, ballot stuffing, vote tallying falsification, intimidation and violence (Wolf, 2010, p.20). The first type of irregularity took place during the voter registration exercise. There were up to 15% dead voters registered. The second type of electoral fraud took place in ethnically homogenous constituencies through deliberate and miscalculated inflation of results (ibid, p.22). Gyimah-Boadi (2007) took an afro-pessimist point of view to suggest “Elections (in Africa) tend to be rigged, and incumbents have been keen to rig to the extent that they can get away with it –which has often fuelled post-election conflicts, and in some cases, triggered violence” (Wolf, 2010, p.20). Therefore, the masses reacted to the electoral fraud not only because rigging took place, but more importantly because the failure or lack of institutions enables political elites to get away with such crime. Hence people lost faith in the judicial system and overall functionality of the state institutions

Prior to the election date, the Electoral Commission of Kenya chair Samuel Kivuitu, was confident that the election would be peaceful and the ensuing transition would be smooth. The results that streamed in the following day showed that ODM leader Raila Odinga, was leading in the polls. However, on 29th December the margin shrunk quickly to a mere 38000 votes with nearly 90% of the votes counted. In other words, 180 out of 210 constituencies had voted, and the remaining uncounted votes were coming from Kibaki's stronghold, that is central and eastern province where GEMA ethnic groups are located. Samuel Kivuitu publicly expressed his suspicion on television by suggesting that the results were delayed because "it was being cooked" (Kagwanja, 2010, 198). This was the first official evidence that indeed ballot rigging may have taken place. Once again on January 1st 2008, Kivuitu acknowledged in a press meeting that he does not "know if Kibaki won the elections" (Lafargue, 2009, p.251). Because of such statements, the ECK appeared to be involved in the fraudulent activities.

Tensions reached a dangerous peak when leaders of both camps, Kibaki for PNU and Raila Odinga for ODM quarreled in the full glare of cameras over the accuracy of the results. The news was distributed by leading media houses to all parts of the country. The crisis exacerbated on 30 December after the police was called in to disperse people in the counting hall at the Kenyatta Conference Centre where Kivuitu nationally declared Kibaki as the victor. According to Kivuitu, Kibaki led the presidential poll with 4,583,360 votes (46%) over Odinga's 4,352,880 (44%) and Kalonzo Musyoka's 879,896 (9%) (BBC News, 2007).⁸ Kibaki was quickly sworn in for a second term at the State House despite calls for postponement in announcing the results (Kagwanja, 2010, p.108). The "twilight robbery"⁹ was solidified by the merging of ODM-K

⁸ BBC News Online. 2007. Kenyan police Killed Thousand; 25 November bbc.co.uk/2hi/Africa/7112183.stm

⁹ Coined by *The Economist* (5th January 2008, p.34)

leader, Kalonzo Musyoka with PNU coalition as Vice president. This bolstered Kibaki's victory from (46% to 56%) with Kalonzo's 9% presidential poll (Kagwanja, 2010, p.108).

With regard to parliamentary votes, ODM secured 99 seats out of 210 possible seats. PNU on the other hand, won 43 seats. This discrepancy produced a hang parliament while deepening the crisis (ECK 2007). ODM rejected the results and claimed victory with Odinga calling on Kibaki to concede defeat and order a recount of the vote. In a response, the PNU coalition accused ODM for fraudulent activities in Nyanza and Rift Valley turfs, where discrepancies evoked from the polling station tallies did not reflect the Electoral Commission results (Kagwanja, 2010, p.110). Kivuitu conceded that irregularities may have occurred and but these were a matter of the courts. The independent review commission also known as Kriegler Commission reported in 2008 that "the conduct of the 2007 elections was materially defective that it is impossible –for IREC or any other agency –to establish true or reliable results for both presidential and parliamentary elections" (Kagwanja, 2010, p.109). ODM flatly rejected the idea of filing a case with the high courts because to them the courts were packed with cronies that Kibaki had appointed five days prior to the election. Indeed Kibaki had appointed five new judges prior to the electoral dispute. ODM also disregarded the idea of calling in neutral commonwealth judges to mediate the dispute (Africa Policy Institute, 2008). As a result, the disputed results culminated into a deadly violent conflict on a national scale.

Official 2007 Presidential Election Results.

Province	Registered Voters	Mwai Kibaki (PNU)	Raila Odinga (ODM)	Kalonzo Musyoka (ODM-K)
Nairobi	1,275,445	313,478 47.4%	288,922 43.6%	52,974 8%
Coast	1,178,537	197,354 32.8%	353,773 58.8%	38,878 6.5%
North Eastern	315,756	97,263 50.4%	91,440 47.4%	4,498 2.3%
Eastern	2,374,763	840,805 52%	83,595 5.2%	726,782 45%
Central	2,186,936	1,643,421 96.4%	30,655 1.8%	11,231 0.7%
Rift Valley	3,358,381	916,112 35.7%	1,584,271 61.7%	34,334 1.3%
Western	1,564,682	312,300 32.5%	639,246 66.6%	6,729 0.7%
Nyanza	2,041,680	262,627 16.8%	1,280,978 81.7%	4,470 0.3%
Grand Total	14,296,180	4,583,360 45.97%	4,352,880 43.65%	879,896 8.82%

Table 1: Summary of 2007 Kenyan presidential election (*source*)- International Crisis Group: Kenya in Crisis (2008) Africa Report N°137

In summary, all national and international observers, including the Kenya Democratic Elections Forum (KEDOF), the European Union (EU), the Commonwealth secretariat, the East African community and the International Republican Institute (IRI), reported that while the voting and counting of ballots at polling-station level was orderly and satisfactory with a few exceptions, the tallying and compiling of the results was manipulated, dramatically undermining the credibility of the results Kivuitu announced on 30 December. (International Crisis Group report, 2008, p.10). Several illustrations of the rigging was provided including a detailed testimony by four national observers who participated in the counting of votes.

One of the first indicators of rigging was the delay in the announcement of presidential results. The prolonged wait for the results raised suspicions because presidential ballots are traditionally counted and tallied first in polling stations (Kawanja, 2010, p.112). Secondly, the announcement by ECK chair on 29 December regarding his loss of communication with some of his returning officers, who had switched off their phones also provoked suspicion (International Crisis Group report, 2008, p.8). In fact, the chair was unable to explain the delays even in nearby constituencies such as Nairobi and Central Province. Under pressure from ODM agents who pointed out the discrepancies in results from ECK's tallying center and those announced at constituency level, Kivuitu agreed to an audit of the results. Despite the results already been aired on live television. During the audit, it was clear that the results of 44 constituencies were untrustworthy, because it was not supported by the proper legal documentation (International Crisis Group report, 2008, p.9). The original statutory forms, 16 and 16A were missing, these forms are used to record the results officially and should have been signed by returning officers and turned in for counter-signature by party agents (ibid, p.10). Another malpractice was the supervision of elections by commissioners from their own "home province" or "ethnic constituencies". They also went ahead and handpicked the returning officers; for example, in central province Kikuyu returning officers were appointed despite the recommendation by ECK provision to not appoint returning officers from their community (International Crisis Group report, 2008, p.8).

The third illustration of electoral fraud was demonstrated through inconsistencies between presidential and parliamentary tallies and instances of more votes than registered voters (Kagwanja, 2010, p.109). According to the testimony reported by national observers, the parliamentary result from Maragwa in Central Province was 115 per cent turnout. However,

ECK officials later decided to manually change these results and make them credible by reducing this to an 85.27 per cent turnout (International Crisis Group report, 2008 p.7). A senior ECK staff member was also recorded in a conversation saying that “the discrepancies are planned systematically and are not accidental....it involves most Commissioners who clearly organized how the tallying was to be carried out (International Crisis Group: Africa Report N°137 2008 p.7)

Rigging thus appears to have taken place at two stages. One at the constituency level and one at central ECK level –Nairobi Headquarters. The assignment by ECK commissioners of returning officers to their provincial strongholds was the first act of fraudulent activities. Evidence showed that some of the chosen returning officers tampered with the vote count and sent to Nairobi inflated returns for their preferred candidate. The discrepancies between the results and turnouts of the parliamentary and presidential elections was an example of fraud at the constituency level. The second form of fraud was witnessed in Nairobi, within the ECK premises where the results were changed to give Kibaki a 230,000-vote victory. The disappearance of returning officers in PNU strongholds in particular, and the lack of either stamps or proper signatures of party agents on the statutory forms presented evidence that fraud may have taken place through the ECK senior officials. According to a report by International Crisis Group, senior ECK officials responsible for tallying the results in the main computer rooms changed the results as they were coming in. Staff members were also coerced to accept and compile the results without support documentation.

4.4 The role of DIGITAL Revolution

The 2007 contest was Kenya's first election to tap into the digital age. With the spread of communication through the latest social media –Twitter, Facebook, online blogs and sharing of images through smartphones, the use of technology was prevalent in the 2007 election. Previous elections in Kenya 1992, 1997 and 2002 had not experienced anything close to 2007 digital revolution. This was due to the increase in the proportion of younger voters and also the advancement of technology in a globalized world. These new forms and spaces of information technologies facilitated the rapid spread of propaganda as much as “truth”. According to Cheeseman, so much election-related information was exposed to Kenyan voters, that it became hard to distinguish facts from fiction (Kagwanja, 2010, p.98). Some of the media space was used to educate voters about election-related matters such as what political parties stood for, who was contesting, and on what grounds. The number of media house (both print and electronic) had also increased significantly compared to Moi's authoritarian era. Television stations (KTN; NTV; CITIZEN; K24; KISS TV; FAMILY TV) and print newspapers (The Daily Nation; The Standard amongst many others) emerged in the new democratic era as independent stations. They provided a platform for the political parties and candidates to communicate their message to the electorate. Similarly, they provided a platform for public to communicate their concerns, opinions, and needs, to the contestants and the ECK.

After the violence broke out, people continued to use these media particularly the internet and SMS, to coordinate humanitarian relief and also to warn each other of possible attacks. The Kenyan Diaspora communicated with their families and friends and continued to stay informed about the developments through the Internet, “smartphones” (for those who had them), and social networking spaces –Facebook and twitter posts. The ‘digital revolution’ added an

advantage and made the 2007 election unique to some extent. However, some scholars including Roger Southall lean more towards the negative contribution of digital revolution than the positive aspects. Southall stressed that the new information age augmented the negative force of “ethnicity” or “tribal profiling” rather than neutralizing the existing ethnic animosity (Kagwanja, 2010, p.10). Essentially the battle for votes (pre-election period) and then lives (post-election period) was fought in cyberspace through the internet, emails and especially text messages (Kagwanja & Southall p.4) Mobile phones in particular were used to incite and mobilize unemployed youth gang in slums.

The term ‘hate speech’ is not used in international law. However, it has become widely used in international spaces for both academic and non-academic work. In my research I use the term hate speech to refer to offensive expressions (spoken language mostly) that often reflect deep-rooted social tensions and attitudes that may be embedded in cultural, religious, linguistic and ethnic backgrounds. In the case of Kenya, hate speech was used to incite and promote ethnic violence of groups. It was also used to defame political leaders on the basis of their ideologies and ethnic backgrounds—the idea of circumcision is an example of such.

The following are some examples of text messages drawn from a study on responses to hate speech by the Institute for Human Rights and Business in Kenya.

“Fellow Kenyans, the Kikuyus have stolen our children’s future. Hope of removing them through the ballot has been stolen. We must deal with them the way they understand, violence. We must dominate them.” (Lafargue, 2009, p.6)

“We say no more innocent Kikuyu blood will be shed. We will slaughter them right here in the capital city. For justice, compile a list of Luos and Kalus(ph) [ethnic communities] you know

at work or in your estates, or elsewhere in Nairobi, plus where and how their children go to school. We will give you numbers to text this information.” (Lafargue, 2009, p.7)

In an effort to combat hate speech during the post-election violence, the government attempted to shut down the mobile network operators (which they ultimately did not do-for fear of breaching democratic rights) but instead, on December 30 2007, the government ordered a blackout of mainstream media (television, radio and newspapers), which for the most part are state-owned. Both print and electronic media were blamed for inciting fellow Kenyans and spreading fear through horrific images of PEV victims.

The Kriegler report stated that the government’s action exacerbated the violence: “Indeed the information blackout, engrafted onto the ECK’s [Electoral Commission of Kenya] lamentable failure to keep the people of Kenya informed, could well be seen as a direct link in the chain of causation that led to the tragedy” (Lafargue, 2009, p.9)

Unfortunately, very few politicians were arrested for contributing either directly or indirectly to the hate speech in media and social networking spaces. The role of media and digital revolution was pushed aside without providing accurate statistics on the content and number of inciting messages that were circulating (Wachanga, 2011, p.33). Such information may have been used to curb future reoccurrence. A few human rights groups, civil society and NGOs attempted to conduct “media and hate speech” studies. However, people were cautious about giving information regarding inciting messages for fear of implicating themselves in the violence.

During the election violence, ethnic communities used metaphors that portrayed their ethno-political enemies in bad light, often referring to their enemies by names other than the ethnic

name. The Luo became *ruriri rwa thamaki* (a tribe of fisher folks) and *kihii* (uncircumcised boys) to the Kikuyu, for instance. What these radio stations did broadcast was, therefore, a true account of facts that were not true, but one that were deliberately propagated to serve in the construction of narratives in the service of particularly premeditated political purposes (Alhberg, 2013, p.8).

Most metaphors used during the Kenyan PEV existed before and had been accepted even as a rich source of ethnic stereotypical humor (Wachanga, 2011, p.16). They did not have any of the atavistic undertones they acquired during the electoral period. The context of deployment framed the meaning and potency of use. There are several Kenyan comedians who have thrived on these ethnic metaphors. The potency of a metaphor lies in the meaning attributed to it. The meaning is as fluid and transient as context changes. This not only challenges the notion of metaphors with determinate meaning, but also problematizes their instrumentalization by the media, in our case the radio stations. They served as a rallying cry and a call to arms, not because of the totality of what can be inferred from them, both positive and negative, but their accentuation of differences. These differences were exploited during the PEV not because of the metaphors but in spite of them. In other words, the metaphors became (1) substitutes for some other things such as land and education and (2) an effective vehicle to foreground differences even as they obscured the real *raison d'être* of the violence.

4.5 Electoral Violence: A Description

In December 2007, a dispute over flawed presidential vote count led to street-protest as Kenyan masses expressed their disagreements over the outcome of the competition. The protest later matured into the deaths of more than eleven hundred civilians, the large-scale displacement of people, and threats to the efficacy of the Kenyan state. Notably, the Waki report accused the Kenyan government for deliberately using militias and security apparatus such as the police and

general security unit to intimidate or silence the opposition throughout the electoral process- pre-election and post-election period (Murunga, 2011, p.39)

Drawing from the literature on PEV, including Godwin Murunga's article on "Spontaneous or Premeditated", there is a clear correlation between the abuse of electoral processes and the eruption of election-related violence. In his piece, the author correctly argues that 'electoral process is an alternative to violence as it is a means of achieving governance.' However, in the event of manipulation of electoral process such as the 2007 Kenyan elections, it is clear that the legitimacy of the government is questioned, leading to alternative means of achieving a legitimate form of political expression. Therefore street protest by youth and slum dwellers became a means of achieving governance where the ballot box failed. In Kenya, electoral violence in 2007 was an alternative means of achieving legitimacy.

The existing literature on electoral violence in African states, particularly the recent Kenyan case, has been very Eurocentric. Some scholars have demonized the continent for its curse of electoral violence. Arguably, the experience serves to cement the long held afro-pessimist notion that Africa's soil is not conducive to the growth of democracy. Elections in Africa are periods during which the stability and security of the state hangs in balance; as such, it is often the case that elections in the continent are approached with much trepidation. The literature decries the political fragility of a majority of African states, even those that have long been considered stable and touted as bastions of peace. Kenya presents a potent example of an African country that had long painted a picture of relative peace while camouflaging the political and economic fragility that gradually ate it from within.

Another western school of thought analyses electoral violence in Africa as "an integral and normalized element" perpetuated by warring factions in order to carry out ethnic cleansing.

Jeffrey Gentlemen, reported in the New York Times that PEV in Kenya seemed “to have tapped into an atavistic vein of tribal tension that always lay beneath the surface in Kenya but until now had not produced widespread mayhem.” In his account of the 2007 events, the writer alludes to physical violence without addressing the centrality of symbolic violence. This creates the impression of a darker and bestial Africa. Similar to numerous Eurocentric scholars of electoral violence, the writer neglects the fact that violence is not simply about ethnicity, instead it is the ways in which ethnicities relate to political and economic power that explain the nature and extent of political violence. More correctly, emphasis and focus should be placed on the interpenetration of historical and current political developments whose origins can be traced to the early stages of state formation in Kenya.

Contrary to this Eurocentric view, the reports gathered by the Independent Review Commission (IREC) and the Commission of Inquiry into Post-Election Violence (CIPEV) have systematically outlined the state’s capacity to facilitate the proliferation of political violence. Therefore, the description of violence as “spontaneous ethnic clashes” is a facade considering that much of the violence was in fact sponsored by the state. Drawing from my own personal experience as well as my findings from the externship, I will argue that the Kenyan people are relatively calm and resilient. However, the political class is generally thought to be indirectly involved in inciting violence as they encouraged non-state actors such as *Mungiki* and other youth militia groups to take violent action. This is so because historically politicians have ‘depended on violence to build electoral influence’ (Murunga, 2011, p.18). In the Political Economy of Kenya, Susanne Mueller agrees that the prevalence of violence in the Kenyan society is harbored within the politics of the nation wherein the political elite deliberately integrate ethnic-politicization so as to undermine government institutions. Such ethnicization is

manifested through the weaknesses of the Electoral Commission, of the administration of the police, and of the judiciary system. While previous studies have ignored the issue of state capacity to facilitate, finance, and deploy non-state actors in inciting political violence. I acknowledge this factor as an integral aspect of the underlying causes of post-election violence.

The literature on PEV identifies three forms of violence: spontaneous, planned/premeditated, and state-directed violence. In the case of Kenya, all three forms played a role. I will discuss them in relation to my leading hypothesis. The masses can engage themselves in spontaneous electoral violence. Spontaneous riots and protests were the first to occur. These protests were extensive, giving credence to the view that post-election situation was primarily a social revolt against a state instituted coup d'état. Protests took place immediately after the announcement of Kibaki's second five-year term and evoked disaffection with the final tally of the presidential results. Irregularities of vote tallying was revealed, contested and played out in the national media which in turned heightened the masses spontaneous eruption. ODM supporters were outraged that victory was snatched from their leader, Raila Odinga, by ECK officials through election rigging. Cumulatively, spontaneous protest and violence served to drive home the point that votes only count when they are counted equally. The pattern of spontaneous violence was repeated in at least two other provinces. In Western province (with the exception of Lugari) and Nyanza (excluding Kisii), the initial violence was a direct consequence of political differences (Murunga, 2010, p. 17) It is not easy to distinguish the spontaneous protests from the premeditated violence in Nairobi and Rift Valley area, because of the widespread mix of forms of violence that occurred there. We cannot totally rule out genuine protest against flawed elections, though these must have been few and overshadowed by premeditated and state sponsored violence.

Protestors used random items in sight, including boulders and large equipment's from nearby stores to block the roads. While other times they lit up fires on road blocks thereby damaging the tarmac. This showed sporadic and uncoordinated use of violence. This contrasts with places in the Rift Valley, where trees were systematically cut down and used to block the roads. By seeking to cripple government operations, protesters aimed to put the government under pressure, hoping that leaders will be relented to verify the results.

Violence was sparked off in large measure by the expectations that opposition leader Raila Odinga would win. The popularity of ODM in most parts of the country compared to the Party of National Unity (PNU) explains the widespread nature of the protests. It was evident not just in the lead of presidential campaign, but also in the geographic spread of the ODM parliamentary and civic representation in Kenya. This popularity translated into an almost unassailable lead as people anticipated the opposition's victory.

4.6 The Role of Transition Institutions

Before the 2007 elections, Kenya was regarded as Africa's emerging model of peaceful transition, from a repressive one party state led by a despotic leader for twenty four years, to a bright future in democracy and development. In order to understand the underlying cause of violence it is crucial that I revisit the role of institutions such as the Electoral Commission of Kenya, the civil society groups, the office of the presidency and the judicial system in facilitating or curbing the occurrence of violence. Throughout my analysis I will be referring to the theory of institutionalism and democratization in deconstructing the role of electoral institutions. In the research hypothesis, I assumed that violence was an inevitable result when electoral fraud takes

place against the backdrop of existing historical marginalization of social groups. In what follows, I will be testing this hypothesis, through an in-depth discussion of the role of transition institutions.

As the wave of democratization hit Africa in 1989, many analyst focused attention on the role of elections as a prominent variable in redefining political order. Elections appeared to be appropriate benchmark for change in leadership, and even regime, something that was elusive to African states. The euphoria of multipartyism was part of a global “third wave” of democratization that swept throughout the continent. Yet, many remained skeptical about its viability in transforming African authoritarian states into democratic liberal states. It became clear that the reconstruction of the political order required more than mere elections or hasty electoral transitions of the 90s. Indeed, many African states resisted the wave of democratization. Kenya was among those countries. Africa’s kleptocratic regimes understood that there was little room for corruption, patrimonial clientelism and state violence in a “democratic” space. Political liberalization signified a total reconstruction of what they were used to. Moi’s repressive regime sought to escape this transformation. However, external pressure from donors (especially western countries such as United States, and ex-colonial master –Britain) reinforced the need for Moi’s government to make the changes. The civil society equally pressed for changes. In the case of Kenya, it was the influence of the civil society, particularly the lawyers in the Law Society of Kenya and human rights organizations in conjunction with National Council of Churches in Kenya (NCCCK),¹⁰ that ultimately convinced the opposition party to demand for changes in the constitution (Mwaura & Martinon, 2010, p.42,). According to the civil society, democracy could only be achieved through constitutional review. Hence it became imperative to

¹⁰ The Anglican and Catholic Church were at the forefront.

restructure Moi's regime (Lafargue, 2009 p.198). After much resistance from KANU's government, Moi succumbed to the popular demands in December 1991. The parliament annulled the one party system and restored multiparty democracy.

African countries adopted three main approaches to consolidate their newly formed democracy. The first path involved the legalization of opposition parties through an amendment of the existing constitutional framework. This approach was mainly taken by countries with strong one-party regimes. Unfortunately, the addition of opposition groups was often fruitless since they were weak and fragmented. In fact, they only served on "paper" but had little pragmatic value. The second approach was national constitutional conferences, which served to re-write part of the constitutional order so as to overthrow the seating government. This approach was mainly adopted in French-speaking countries such as Benin, Congo Brazaville, and Mali (Mutua, 2008, p. 16). The model was unable to take root in English speaking countries, like Kenya. The last model involved managed transitions by military oligarchs who were tired of years of misrule and lack of political vision to steer the country in the right direction. Nigeria was among such countries in Africa that used this path. The outcome of the above reforms depended on the history of the country, the strength of its social forces especially the civil society and the competing political interest by those in power (Mutua, 2008 p.16).

The debate surrounding the reconstitution of political order in post-colonial African states became a central argument among reformist movements across the continent in the post-1989 period. The debate was divided into two major camps, those who supported institutionalism versus anti-institutionalism. Proponents of institutionalism argued that a new democratic institutions were vital in regaining political order in African states as well as speeding up the

process of modernization. Institutions were seen as a tool to combat authoritarian neo-patrimonial regimes and abolishing widespread impunity and corruption. Most of these arguments resonated with Samuel Huntington's piece on Political Order in Changing Societies (1968). Huntington argued that developing countries such as Kenya could only attain modernization if they constructed strong institutions and not vice-versa. Otherwise it would lead to political decay. He compared institutions in the west versus institutions in the non-west and came to the conclusion that culture and institutionalism are important ingredients in achieving stability. He claimed that societies deficient in stable and effective government are also deficient in mutual trust among its citizens both in terms of national and public loyalties, and in the organization skills and capacity" (Huntington, 1968, p.31) This discrepancy between the West and non-West, according to Huntington, is due to the lack of institutionalized institutions in non-Western countries. He writes, "The existence of political institutions...capable of giving substance to political interests distinguishes politically developed societies [the West] from underdeveloped ones [non-West]" (Sangmpam, Reader, p. 156).

Similarly, Juan J. Linz and Alfred Stepan also put forth a cultural and institutional argument stating that "democratic consolidation requires that citizens develop an appreciation for the core institutions of a democratic political society—political parties, legislatures, elections, electoral rules, political leadership, and interparty alliances" (Sangmpam, Reader, 214).

In support of this argument, Makau Mutua writes that "the obvious place to start the process of regenerating the political order is the constitution, the one document that defines the sum total of the powers of the state, their distribution, and limitations imposed on the government" (Mutua, 2008, P.17). In Other words, undemocratic or illegitimate state cannot reconstruct political order unless it revisits the constitution, which is the foundation of legal

framework in a state. In the case of Kenya, the state resisted a substantial redrafting of the constitution for fear that it may leave the political class with less powers. In fact, most of the undemocratic aspects of the constitutions remained intact apart from re-introducing multipartyism.

Up until 1991, Moi had amended the constitution thirty two times to buttress the executive branch. The institution of presidency had immense powers in controlling public resources and in every decision making process, including elections. Because of this, Moi was still able to use extra-state violence to frustrate democracy and secure his victory in the 92 and 97 “multiparty” elections. According to Kagwanja, KANU’s victory was massively assisted by a “badly splintered” opposition elite as well as an entrenched culture of impunity relating to informal violence (2010, p.3). In fact, it was during the era of transitional democracy that Moi increased the number of urbanized militia groups in various parts of the country. One of the prominent militia group sponsored by Moi at that time was Jeshi la Mzee (old man’s army) as a tool to break the wave of constitutional reforms. The militia group was used to diffuse any public rallies held by opposition groups. As a result, opposition politicians followed suit and equally recruited their own private militia groups as bodyguards, which in turn contributed to the breakdown of public order. In short, Kenya’s transition to democracy was filled with violent upturns. Violence, displacement and dispossession were used to punish communities who did not support Moi’s rule. By the time Moi stepped down in 2002, Kenya had become a “cesspit” of numerous militia gangs and “tribal” bandits and myriads of unknown private militia, supporting both camps (KANU and the opposition groups) (Kagwanja, 2010, p.111). All in all, the amended constitution proved to be inadequate.

Despite the change of power from Moi's regime to Kibaki "democratic" government, the constitution remained intact. Prior to Kibaki's victory in 2002, an informal Memorandum of Understanding was established between the then opposition party (NARC) and Moi's government. The aim was to introduce the position of Prime Minister as a viable solution to moderate the personalized powers of presidency, which had been accumulated by former President Moi. Once elected, however, Kibaki opted to retain the status quo. Even though MoU¹¹ was not a legally binding document, Kibaki's action not to abide by its pre-election agreement, opened the doors for misunderstandings and resentment among political leaders and public at large. As a result, part of ministers serving NARC government opted to quit the party. This group was led by Raila Odinga. Kibaki remained unaffected by the move, which in turn had immense implication in terms of increasing the polarization of politics along ethnic lines (Republic of Kenya: Waki Commission, 2008, p.30).

Institutionalism may argue that the 2007 elections were, in essence, a reflection of failed attempts by the power elite to agree on how to devolve power from imperial presidency to a reformed, but integrated executive (Mutua, 2010, p.17). Thus the "weakening" of state institutions was a major precipitating factor in the electoral violence of 2007 (Kagwanja, 2010, p.14). Kibaki's team was seen to be seeking to "kikuyunise" the state rather than sharing the fruits of growth (Lafargue, 2009, p.194). Strengthening public institution is crucial in terms of countering ethnic consciousness and the culture of impunity. According to Jerome Lafargue, the civil society led by Lawyers were convinced long before the politicians understood that institutions did count, and that change would follow suit institutions were built.

¹¹ Memorandum of Understanding

Another institution that was at the center of controversy in the 2007 elections was the Electoral Commission of Kenya. Throughout the election period one of the major questions was whether the Commission was capable of conducting a free and transparent election (Mutua, 2010, p.17). Given that democratization entails ingredients such as frequent elections, free press, respect for human rights, an independent judiciary, rule of law, and a greater role for civil society, it was crucial that the ECK in accordance to Article 41 and 42 of Kenyan Constitution adheres to these rules in its conduct (Ajalu, 2000, p.133). In 2007, the term of office of 22 ECK commissioners expired before the election date. The constitution stipulated that electoral commissioners ought to be elected through an official meeting between the president and the opposition group. However, Kibaki opted not to consult the opposition, and further appointed five new commissioners, three days prior to the election date (Lafargue, 2009, p.190). Since the constitution provided the president with exclusive power, the appointment of ECK officials was seen as his prerogative. With no provision to seek legal redress, the opposition kept quiet. Because of such arbitrary private appointments, the institution of the electoral commission was partially responsible from an institutionalist perspective. In the following days, the validity of the ECK as an institution was constantly questioned, so was the judiciary as an organ of the state. The Chief Justice was waiting to swear in Kibaki even before the release of the results.

Kenya's post-election violence was described as a crisis of democratic transformation that is typically experienced by countries facing a closely contested election or election dispute (Africa Policy Institute, 2008). During an interview with Professor Anyang Nyong'o on 4th January 2015, he explained that the PEV in itself was not an ethnic conflict rather it was a political conflict with ethnic undertones that was caused by state interference in the transparency

of the election. In our conversation, he referred to the manipulation of ECK by state officials as a fundamental breach of democratic rule that ultimately contributed to the violence.

The Waki report asserted that the constant and systematic violation of the constitution may have triggered post electoral violence. The report blamed the subordination of the independent electoral commission, the police, and the judiciary to the executive power as a breach of rule of law, since they did not exercise their power as an independent entity. Proponents of constitutionalism/institutionalism may argue that constitutional vacuity was the underlying cause of the violence. Lack of a culture of constitutionalism has engendered the politics of ethno-regional exclusion and negative competition by concentrating immense powers in the office of the presidency, minimizing public participation, and rendering state institutions ineffective.

On the other hand, Professor Yash Pal Ghai (2009, p.2) argued that blaming a “bad constitution” for enormous powers vested in the office of, or illegally appropriated by, the president; the centralization of power in Nairobi; the lack of public participation; and the lack of autonomy, effectiveness and legitimacy of state institutions was not the challenge facing Kenya nor was it responsible for PEV. Enactment of a constitution is distinct from the adherence to its values, institutions and procedures. A constitution by itself makes no difference. Kenyan society determines the extent to which the constitution shall be observed, manipulated, or disregarded, and therefore the extent to which constitutional reforms will have meaning (Ghai, 2009, p.4). The notion of a constitutional order is broader than merely the text of the constitution. It represents a fundamental commitment to the principles and procedures of the constitution and therefore emphasizes behavior, practice, and internalization of norms.

Going well beyond institutions, proponents of anti-institutionalism argue that “institutions are created by society-rooted politics,” and therefore the problem lies within the political and social relations of groups (ethnic, class, religious) rather than institutions themselves. In his article, “Politics Rules: The False Primacy of Institutions,” Sangmpam argues that ‘new institutionalism’ is not any different from ‘old institutionalism’ as both “fail to subordinate institutions to society-rooted politics” (Sangmpam, Reader, 572). Sangmpam then proceeds to explain how rational choice institutionalism and historical institutionalism are similar to ‘old institutionalism.’ By viewing institutions as the problem, one is likely to look for institutions-as-solutions.

One of the major institutions that played a role in Kenya’s post-election violence was the non-governmental organizations (NGO). Given their analytical focus and their application of social science, most NGO tend to be oriented towards neo-institutionalism. This makes them carry out studies on institutions which they consider ‘social actors’. Their goal, essentially, is to suggest changes and if possible improvements which in turn can help the overall functionality of these institutions (Lafargue, 2009, p.191). However, these institutions do not have a normative approach; they simply seek to find recommendations. Looking at the post-election violence, their interest in using such an approach was clear.

According to institutionalists, political parties, which are another example of institutions, are basically inconsistent in their operation since they act as an election machine only when activated during campaigns. NGO’s also blamed the ECK for the post-election violence, stating that it was unreliable insofar as organizing elections (Lafargue, 2009, p.192). In December 2007, the rigging of elections took place within the space of ECK offices. Another institution blamed by the NGO is the police force. They cited the autocratic culture of the Kenyan police and their

lack of professionalism and preparedness in their duties as a major contributor the violence. Electoral violence according to NGO's is a matter of general law, which is handled by security forces.

However, the question debated between proponents of institutionalism and anti-institutionalism still stands: Are institutions solely responsible for the violence? What about violence emanating from societal politics? Anti-institutionalists believe that the problem lies beyond institutions and is rather ingrained in politics of society. In the case of Kenya's post-election violence, anti-institutionalists have proposed issues of ethnic consciousness, class struggle among other socio-political factors.

Drawing from my research hypothesis, which correlates higher social marginalization from political power and state resources to the likelihood of political violence in the event of electoral fraud, it is clear that institutions are not necessarily the paramount cause of the violence. Instead, I continue to argue that "weak or lack of institutions" in the case of Kenya's post-election violence were merely a by-product of other societal issues stemming from historical marginalization. These included ethnic animosities, land disputes and general class struggles among all social class, especially the petty bourgeoisie. Institutions cannot be corrected unless, existing animosities in society are dealt with. Therefore, reducing the analytical focus to institutions does not explain the entire crisis, nor will it produce solutions that can eradicate socio-political problems. There are other states in developing countries that have far weaker institutions than Kenya, yet they have not succumb to such events. NGOs' neo-institutionalism approach assigns too much influence to the law than other social factors. Now I turn to my social variables, ethnic and class marginalization.

4.7 Ethnicity and Electoral Violence

I have demonstrated in the previous chapters that Kenya's history of ethnic politicization is embedded in its colonial past. Continuity from colonial tactics of 'divide and rule' has been projected in the neo-patrimonial structure of the state as well as in the politics of ethnic identity in land distribution and ownership. As Charles Hornsby states in his book, Kenya: A History since Independence, Kenyan politics cannot be understood without understanding Kenyan ethnicity (Hornsby, 2012, p.1) Ethnicity has played a significant role in telling the story about the people as communities and their collective behavior. It is not, however (and never was) a primordial constant, but instead an area of conflict that stems from genuine differences of languages, culture, and economic interests between peoples living within the boundaries of the nation-state. This struggle for resources at the center has defined and structured ethnic identities. In Kenya, a certain form of ethnic conflict has been enduring despite various attempts to build a national identity. In essence, ethnicity has shaped the political system, and has in turn been shaped by Kenya's politicians and the institutions they inhabit. Sometimes this struggle for national identity has been associated with violence. "The problem of ethnically focused political violence in Kenya has come to the world attention in 1969, 1991-3 and 2007-8; each time worse than the last" (Hornsby, 2012, p.2). From the various interviews I have conducted, coupled with the supporting literature review compiled in this research, I argue that the persistence and saliency of ethnic violence lies in the land rights, economic disparity, elite survival strategy and state abuses. In the following analysis of marginalization and electoral violence in Kenya's 2007 election, I present various cases and scenarios in pre-election and post-election period that support the argument that ethnic politicization contributed to the violence.

From the establishment of constituency boundaries through the allocation of Cabinet posts to employment practices of parastatals and even ethno-coalition political parties, ethnicity has permeated the Kenyan state. The potency of ethnicity in the Kenyan state can be attributed to the complex ethnic distribution in which more than 40 ethnic groups, a few larger ones but no single dominant group favored a system in which coalitions of communities were required in order to seek and maintain power. Politicization of ethnicity in Kenya's first parties –KANU, KADU, the APP, the BPU and NPUA was partly an extension of colonial construction of ethnic reserves and the *majimbo* Constitution, but more importantly it was meant to discourage a class-based or national party (Lafargue, 2009, p.187). Kenya's stunted democracy combined with Mau Mau war reinforced the need of a political system based on concentrated local support. This policy ensured that political competition was based on a safer ethnic basis instead of disruptive class basis where any 'outsider' –be it Asian, European or Arab would replace them from the benefits of *Uhuru*- a Kenyan metaphor for benefits of independence. Ethnicity is simply a natural point on which to compete, since politics is intrinsically a contest of national resources and political power. The older generation of politicians viewed political events through an ethnic lens. As such, voters will support politicians who they believe will represent their interests, and the person seen as most likely to do so is someone from the same ethnic community as themselves. Since 1963, it has proved virtually impossible for anyone "outside or foreign" to represent a rural community at the parliamentary level. Kenya's Parliament was poorly designed to 'ground' ethnicity or geographically focused cleavages, especially in multiparty era. Today, the geographical and, therefore, ethnic bases of wealth is still structured according to Kenyatta's neo-patrimonial politics of exclusion. According to 2004 data, 11 of the richest constituencies in

Kenya were all in Central Province and the top four were found in Kiambu District, which is the ancestral home of Jommo Kenyatta (Hornsby, 2012, p.803)

The 2007 election campaigns started soon after the 2005 referendum. During this period, ODM and PNU both underwent characteristic political and ethnic alignments and realignments. Most Kenyan political parties have been reduced to focusing on the party leader's ethnic group. In fact, it is clear from the literature on ethnicity and voting that multiparty democracy has strengthened the belief that "to be a Luo was to support Odinga; and to be a Kikuyu was to support a Kikuyu leader such as (Kenyatta, Kibaki or Matiba); to be Kalenjin was to support Moi" (Hornsby, 2012 p.804). This is true of the post-election results where 94% of Kikuyus voted for the Kikuyu candidate (Kibaki) and 98% of Luo's for the Luo candidate (Odinga). Kalonzo Musyoka, a Kamba, though he had a lesser chance of winning the election compared to his counter parts with strong voting pull, his ethnic group still backed him up as he received 85 per cent of their votes –Machakos constituency.

Once ethnic cleavages are established, they tend to become self-sustaining. The Kikuyu-Luo dichotomy did not exist before 1961 (Odinga versus Kenyatta); similarly the Kikuyu-Kalenjin discourse was constructed in the Moi era. These discourses have been transported and manipulated by elites through ethno-nationalism political ideology to produce a multiplier effect. Kenya's new generations have largely consumed these ideologies and demagoguery. Sebastian Elischer (2008), a researcher for the German Institute and Global Area Studies therefore argues that ethnicity provides a stronger rallying ground for political activity than party structures. In his study, he comes to the conclusion that indeed multiparty democracy in Kenya has exacerbated Kenya's dominant ethnic cleavages. According to him, Kenya by nature promotes a mono-ethnic party system wherein the interests of the dominant ethnic group carries the most weight. For

example, in the 2007 elections, ODM party was perceived to be Luo dominated because opposition leader Raila Odinga was a member of Luo community. On the other hand, PNU was viewed as a Kikuyu party. However, this was not the case. Both parties had members from various ethnic groups including a sizeable number of followers in Nairobi, the Coast and Rift Valley province. This is because, when it comes to elections, political parties opt for coalition of ethno-regional leaders to improve their chances of winning. Taking into account the large ethnic dispersion in the country, politicians have no choice but to mobilize voters outside their ethnic bloc. Drawing from the table below, it is clear that both ODM and PNU incorporated this form of diversity in their respective coalitions of convenience.

Presidential Candidate	Mwai Kibaki (Kikuyu) -PNU	Raila Odinga (Luo) –ODM
Main Member Parties	DP, FORD-K, FORD-P, KANU (Kenyatta/Moi), New Kanu (Biwott)	LDP, KANU (Ruto)
Influential Figures	Moody Awori (Luhya) Musikari Kombo (Luhya) Nicolas Biwott (Kalenjin) Symon Nyachae (Kisii)	Musalia Mudavadi (Luhya) William Ruto (Kalenjin) Charity Ngilu (Kamba) Najib Balala (Arab from Coast)

Table 2: Main Alliances in the 2007 Elections

Source: Sebastian Elischer (2008): Ethnic Coalitions of Convenience and Commitment: Political Parties and Party Systems in Kenya

Even though political parties prefer a powerful coalition of ethno-regional leaders, with alliances at every level, this does not stop them from openly appealing to the parties dominant ethnic support group. For example, in the run-up to elections, PNU strategist exploited ODM's anti-kikuyu rhetoric to prey on ethnic fears of "Mount Kenya Region" communities. PNU alleged that if ODM won the coming elections it would carry out massive genocide against

Kikuyu with no less than one million Kikuyu casualties (Kagwanja, 2010, p.116). Often the fear of domination or extermination, whether based on propaganda or truth, can unite people beyond their various sub-ethnic differences. An example is Gikuyu, Embu, Meru (GEMA) communities. As Mount Kenya communities, they took these threats seriously and voted as a bloc for fear of extermination. Surveys conducted by Synovate in pre-election period showed that Kikuyus were significantly more concerned about becoming victims of political violence, with 66 per cent stating that they always or often feared violence (Kagwanja, 2010, p.116).

ODM continued to build its campaign on the anti-kikuyu rhetoric. The subtle appeal to anti-kikuyu domination was key to reinforcing their support base which was mostly Luo, Kalenjin, Luhya, and Coastal communities. Using the banner of “forty-one tribes against one” or “Kenya against kikuyu”, the opposition leader managed to reawaken the resentment of historically marginalized populations in Kenya from various class and ethnic background. The Kalenjin saw Odinga as their best chance for revenge against Kibaki’s government. Media and technology was often used in the battle for ethnic support. ODM circulated a list of senior state posts held by Kikuyu elite and businessmen in government, particularly in the Treasury, the Kenya Revenue Authority and the Central Bank (Hornsby, 2012, p.748). To break the anti-kikuyu rhetoric that was gaining momentum, the government released a list of public service and parastatal heads so as to dispel this “myth of Kikuyu” bias. But to Kenyans, ethnicity was not an imagined frame of reference, but a reality. Many had felt alienated from the state power and national resources. These groups included minority ethnic groups: KAMATUSA, Mjikenda communities, Taita, Kamba etcetera. Their regions were not as developed in terms of infrastructure and agriculture as Central Province. Privatization by political elites and influential businessmen eroded their chances of access the states resources (see appendix respondent: 5).

Often in marginalization, ethnicity, class and land (productive force) converge. ODM campaign highlighted kikuyu domination of government, and the commanding heights of the economy, including banking and trade, as well as blaming kikuyu success for the marginalization suffered by the other groups (Chege, 2008, 133).

With the announcement of Kibaki's victory and the widespread belief that PNU had rigged the results, protest and violence erupted throughout the country. Initially, the protest was a non-violent demonstration against the "corrupt" ECK and pro-Kikuyu government. It soon descended into a mass slaughter and eventually took an ethnic dimension. By January 1st 2008, text messages with the hashtag (#41on 1) circulated inciting other communities to rise up against pro-government ethnic groups and mainly against "kikuyu" election rigging (Kagwanja, 2010, p.115). Over the coming weeks, Luo, Kalenjin, Mijikenda and Masaai men took up arms against pro-PNU communities in their midst. The Kikuyu were identified as the enemy and described in Kalenjin vernacular radio station KAAS FM as *madodoa*. Angry Kalenjin youth translated this as spotted hyenas that ought to be expelled from the region (Kagwanja, 2010, p.121). Kikuyu property was vandalized, their crops in the field were torched down and victims were killed based on their ethnic background. However, the ethnically charged violence mainly affected poor peasant families, small farmers and traders who fled by foot, bicycle and even handcarts to safety in internally displaced persons camps (IDP) and church compounds (Kagwanja, 2010, p.120). Unfortunately, the churches, which were considered to be a safe refuge, became their death trap. On January 1st 2008, an estimated 200 Kalenjin youth set the Kenya Assemblies of God a church in Kiambaa, Eldoret on fire, burning alive and beyond recognition more than 35 women, children and disabled people. Out of the 35 individuals, 28 were Kikuyu (Hornsby, 2012, p.764). This inhumane act of ethnic violence was not spontaneous, instead it was a premeditated act of

cleansing organized by Rift Valley leaders. A structured high command was established to execute the ethnic cleansing and to run training camps for young Kalenjin fighters after taking their oath –*Mumiat* (Kagwanja, 2010, p.120). Retired officers trained the youth in combat techniques, traditional war cries and how to burn and kill. Local security was overwhelmed, afraid and in some cases divided because of their primordial allegiance to their ethnic group. Some Kalenjin chiefs and police joined the attacks while some Kikuyu police were forcibly disarmed by their Kalenjin colleagues.

In Kibera slums supporters of ODM party, took an ethnic perspective of the event. Luo mobs vented their anger on poor and helpless Kikuyu neighbors who they perceived as PNU supporters and ‘enemies’. Kikuyu youths in the slum were forced to defend themselves and mobilize groups take revenge against any non-kikuyu in their residential area. Kibera slum in Nairobi became the epicenter of the violence, due to its high population density, lack of proper policing and centrality in political conflict. Kibera was also seen as a stronghold of Odinga since it was his constituency. Other slum districts of Nairobi with various ethnic groups including Luo and Kikuyu residents faced similar degree of violence (Mathare, Korogocho, Huruma, Kariobangi and Dandora). Dozens were killed, and police had to be deployed in large numbers to separate the warring groups.

In other words, the range of reasons for looting and violence grew as the days wore on and as the violence escalated from a mostly local to a national phenomenon. Though this had everything to do with the opportunity provided by the post-election crisis, not all this violence was planned as murderous acts of ethnic cleansing. In Western, Luo Nyanza and Coast province, as well as in selected instances in Nairobi, this violence constituted the interface between spontaneous protest and planned violence. This would also explain why in these places,

excluding Nairobi, the highest numbers of deaths and injuries were caused by the police, while citizen-to-citizen deaths were considerably fewer.

In Kisumu, protestors destroyed government owned buildings and looted what was left including Nakumatt and other mega-grocery stores. Demonstrations, barricades and looting continued across Nyanza, Rift Valley and other major towns (Nairobi, Mombasa, Nakuru, and Kisumu). Food shortages worsened. Properties worth billions of shillings were burnt. Many Asian businessmen fled. The shilling collapsed; foreign tourism virtually ceased, horticulture exports declined, stock exchange dropped 25 percent and the economy went into a free fall. Following the reports of the Church incident, tens of thousands of Kikuyu IDPs began pouring into Central Province -the Kikuyu homeland. Ethnic 'self-defense' units in the worst hits areas became more organized especially in slums where politicians supported youth militia groups and gangs (Hornsby, 2012 p.765). One of such militia groups was the return of *Mungiki*. *Mungiki*, was initially formed in the 1980s as a resistance group seeking to liberate the Kikuyus from Moi's oppressive regime and to spearhead a cultural revival of traditional Kikuyu way of life (Kagwanja, 2010, p.121). In 2007 post-election violence, *Mungiki* emerged and operated openly in urban slums, towns and hot spot areas. On Nairobi-Nakuru highway, *Mungiki* organized impromptu checkpoints where passengers in buses and matatus¹² were asked to produce their national identity cards. The cards indicated one's place of birth and origin, which enabled Kikuyu militia groups to commit ethnically charged violence on Luo and Kalenjin members by lynching them (Sunday Nation, 3 February 2008). Media reports claimed that *Mungiki* was administering oaths to young men from IDP camps and some parts of Central Province –mostly among GEMA communities –and dispatching them to Rift Valley for retaliatory violence.

¹² This is public means of transport widely used in Kenya.

Mungiki was viewed by some as heroes and as an effective counter against Kalenjin warriors. However, their linkage to top Kikuyu politicians was constantly implied by various media houses both locally and internationally. According to Kenya National Human Rights Commission and the Waki Report, “*Mungiki* was used by some civil servants, ministers and members of parliament to fight back against Luo and Kalenjin attacks” (Kagwanja, p.122). Although the retaliatory attacks by *Mungiki* is largely based on speculation, it however points to the critical role played by the state in instigating violence through ethnicity. However, not all militia’s groups and youth gangs in the post-election period was made up of *Mungiki* members. Some petty criminals took advantage of the chaos to rustle property and land.

Violent reactions to disputed elections, were largely based on “bad” politics, such as Madodoa and Majimbo policy that were re-introduced in the campaign period 2003-2007 by both camps. In Kenya, political elites have perfected the cynical manipulation of ethnic emotions and identities to the detriment of the larger nation (Mutua, 2010, p.189). Political elites deliberately conflate their interests with those of their ethnic bases through demagoguery and the worn appeal to “my people”. The diversity of the society and the numerical strengths or weaknesses of the various groups, including their location relative to the larger national resources, becomes an important tactical tool used during political campaigns. Elites exacerbate social cleavages (ethnic, religious, linguistic, gender) because they use their specific cleavages as props for political power in order to bargain for a piece of the national cake.

4.8 State Power, Class and Violence

Mamdani suggests that political power only makes sense when analyzed in the context of concrete moments of accumulation processes and the struggles shaped by those processes (Ajalu, 2000, p. 149). Thus, the role of state power, class, and violence in the context of Kenya's PEV can only be understood through the post-colonial state, its forms of accumulation, the character of the classes that controlled the state, and, more importantly, how state power has been mediated politically (ibid, 2000, p.149). This discussion will be partially drawn from my analysis in chapter three.

In many ways, the post-colonial state is merely a “child” of the colonial state. It imitated the colonial state in a number of ways. Firstly, the administration and the civil service became a powerful arm of the executive, which provided the state with legitimacy to enforce laws. The civil service was endowed with the task of safe-guarding the interest of the colonial state, which was often equated with the interest of the political elite. In an effort to ensure the survival of the colonial state, the civil service engendered laws and policies which in turn choked political freedom and eliminated any form of threat including the formation of political parties. Secondly, the colonial state was formed for economic reasons. Kenya's colonial history supports a form of class-based society, wherein the state created conditions and policies that privileged the accumulation of wealth for a small minority –colonial elite. The post-colonial state “inherited” these two features. The political elite or the petty bourgeoisie became the central actor.

Kenyan political elites viewed themselves as a ‘class’ of their own with a distinct identity and social economic interest. Unfortunately, the majority of Kenyan workers and peasants remain ‘excluded’ from political power and state resources. The new elites (petty bourgeoisie)

inherited similar economic and political structures from the departing colonial administration. The coercive power encapsulated in the colonial state was later deployed by the post-colonial state to facilitate the process of primitive accumulation and to maintain law and order. This process continued to generate inequalities over the years. Post-colonial Kenya was an extremely stratified society, with a few thousand African, Asian, and European families at the top. A significant urban middle class, a small working class in urban and rural areas, a growing underclass of *jua kali*¹³ workers, and a large unemployed population considered as a landless class.

The top class is made up of well-known families of those in power, those favored by the patron-clientelist network, wealthy businessmen who bought manufacturing industries from departing Europeans. This top class includes those who replaced the Europeans in the state offices and state-owned business enterprises, including the Kenyatta family, the family of ex-CBK Governor Philip Ndegwa, Unilever boss Joe Wanjui, John Michuki (owner of Windsor Hotel and Golf Club) among others (Hornsby, 2012, p.655). Most of these families were privileged through the post-independence government, and some were able to acquire large territories of farmland and ranches from Europeans. The second fraction of state bourgeoisie is made up of those who made their money in the late 80s and early 90s through Moi's neo-patrimonial state. Despite denying having foreign bank accounts, it was well known that Moi had several private residencies, investments and businesses along with his proxies such as Nicholas Biwott. His cronies used his name as a form of authority for their "dirty" transactions (Hornsby, 2012, p.655). The third fraction is made up of Asian business community, who own several

¹³ 'Jua kali' can be translated as 'hot sun' in Kiswahili. However it is often used to refer to people who work metal and wood for a living. However in the recent past, the term is being used to reflect the poor working class who are immersed in manual labor.

manufacturing industries and franchises, including Pattni, Somaia and the Shah banking families. Their close ties with ministers helped them to win government contracts. There is, thus, a close interrelationship between business, politics, and state power. The wealthiest elites know each other, school their children together and are in business together. Their struggles to consolidate resources into their mini-*chaebol* (family controlled conglomerates) lay the foundation of the country's political and class struggle (Hornsby, 2012, p.655).

The application of force has been fundamental to the creation and sustenance of the colonial and post-colonial state. Even though the military has rarely been deployed on active service inside Kenya (for several reasons which will not be discussed here), Kenyatta, Moi and Kibaki's governments all retained a monopoly on the means of coercion. The bulk of the coercive force remains within the police, the GSU and the army (see appendix-Firoze). The reason why the police has always carried out the orders of the government, even in scenarios where the violence seems unnecessary, is because the interest of the police force and General Service Unit has been linked with that of politicians. Historically, the government has invested more resources in the security apparatus than any other sector including education and health services. Secondly, the patron-client relations have also been extended to the security forces. Kenyatta, for example, relied heavily on and believed in the importance of security, not only for his personal protection but also for purposes of development. Kenyatta consistently used the language of violence during his time in power, and while Moi seemed gentler in words, his deeds proved to be more brutal, based on statistics gathered on the increase of police torture and extra-judicial killings (Hornsby, 2012, p.798). In short, the political assassinations, the *Mwakenya* repression, the abuses of pro-pluralist elites, the clashes and violence against *Mungiki*, all point to the fact that the state elite is willing to use force when its interest is at stake. This perception

has remained ingrained in the Kenyan society. Indeed the state has long been part of the problem. For that reason, the post-election violence in itself cannot be analyzed without referring to the country's history of state violence by the political class for personal accumulation.

State power, as Szeftel (2000) points out, is considered an “engine for development” that commands power, resources and allegiance. The state becomes the epitome of upward social mobility (Ajal, 2000, p.151). For the petty bourgeoisie, their economic fortunes rest heavily on their ability to access state-power. As a result, political power is sought by all means and maintained by all means, including violence. Any attempts to democratize the post-colonial state would obviously threaten the new political class, since stepping down meant that their access to state-resources would be limited. Thus, it is not surprising that the control of the state or proximity to those who have access to state-power has been increasingly the main pre-occupation for all class strata. As discussed in chapter two and three, it is the state that has the organizational capacity to create conditions and pursue policies which facilitates the accumulation of wealth by the political elite. This privilege given to the elite is at the expense of the popular classes (masses), who are forced to compromise their wealth and resources for the state elite. This further fuels the struggle because the elite's wealth is not based on legitimate reasons. The politics of brutality and violence continue to manifest in different government activities precisely because the economic mobility and expansion of the new ruling class is largely tied to continued control of state-power. The Control of the state therefore is so crucial.

True, politics is generally about the control of state-power, and politics in Kenya cannot be defined based on class relations only. Nevertheless, in countries where there is a convergence between ethnic, regional, and religious divisions, the tendency is for the state to be the central economic player. The state in Kenya has rarely used democratic means to distribute resources

and pacify its people. The Kenyan state has historically pursued unfair policies such as the re-Africanization of land and ethnic-politicization to appropriate disproportionate percentages of resources for those it favored (individuals or groups), while leaving those entitled (legally) without any form of compensation. In the long-run, people developed resentments against the ruling class based on its unfair neo-patrimonial tendencies and use of violence to get its way. The government uses force either by directly employing the police or indirectly influencing the decisions of the judicial system, thus making it difficult for the average person to get their rights. All this supports the instrumentalist concept of the state, where the powers of the state determine almost every aspect of investment patterns, access to resources and to social rights. In effect, the state has been driven by a single social class, the petty bourgeoisie in power. Those without state power and or proximity to anyone who has access to power remain politically insecure about their rights and protection of property. In his book, Kenyan Capitalism, the State and Development (1994), David Himbara discusses how the Indian commercial and industrial capitalists were regarded as foreigners and how their property was arbitrarily confiscated by the government and appropriated to African as part of re-Africanization policy in the 60s (Himbara, 1994, p.16). In most cases it was the politicians who gained from this transfer. On the other hand, the Indian business owners were left politically insecure about the future of their assets.

Kenya's post-colonial history of state power and class can be summed up in three related, though distinct ways. (1) The dominance of patron-clientelism and the personalization (and ethnicization) of decision making, (2) corruption and the commercialization of the state, and (3) the limited capacity of the bureaucracy to execute policy (Hornby, 2012, p. 793) Each of these are facets which can be used to analyze how state power and class in Kenya's 2007 election contributed to the violence. In Kenya, there is little doubt that patron-client politics and

patronage are present in various spaces. The hierarchical personal relationship (often with ethnic undertone) cover the private sector, the religious institutions, civil society, the professional spaces and even the state itself. In the last two or three decades, these personalized clientelist relationships have become so pervasive and cynical that everything is driven by money and less on trust-based relationships. Many Kenyans no longer vote for free, and the moral obligation of the rich towards the poor has weakened. So have the links that once connected the urbanites to the rural life. The socio-political and economic disparity between these two groups has continued to grow. Urbanization has created huge, poverty-stricken, violent, lawless and disenfranchised communities which require urgent attention from the state in order to avoid complete social collapse (Hornby, 2012, p.794). Instead in Kenya political elites have taken a different approach to this issue. Political elites seem to profit from such violence. Instead of viewing the disorder as dysfunction and threat to the state, the state elites in Africa have capitalized and institutionalized violence for personal gains (ibid, p. 795)

In election periods, a rational pursuit for power induces political elites to tolerate and even foster violence as an alternative to ballot-box outcomes. Several claims were made by civil rights groups and various reports by Human Rights Commission, Kriegler and Waki that indeed the state played a role in facilitating, financing and even deploying state (GSU) and non-state actors (militia groups) to incite political violence in order to deflect attention from the soaring class inequalities (Murunga, 2011, p. 22). This argument has been mentioned by some political science scholars including Patrick Chabal and Jean-Pascal Daloz (1999). They indicated that African rulers tread a path between “formal and informal structures, bureaucratic and non-bureaucratic forms, statism and statel essness” (Beissinger and Crowford Young, 2002, p.244).

In other words, non-state political units coexist with more bureaucratic and formal state entities in order to provide legitimacy to state violence.

Despite these weaknesses, the Kenyan state does not constitute a failed state. Business functions as usual, rebels do not roam the streets, and tourists still visit the country, among many other achievements. However, it is true that Kenya is a neo-patrimonial state, in which bureaucratic processes and norms compete with and coexist with personal authority (Hornsby, 2012, p.796). Today, the Kenyan state faces a systematic lack of trust in the efficiency and neutrality of its administrative processes, unless there is a private patron-client relationship to secure that trust. The state no longer has a presumption of impartiality in its decision-making policies. Instead, all decisions are based on ethnic or personal benefit. In essence, the state is not seen as an impersonal and partial entity, but rather a coiled mass of interests, harnessed by a partial bureaucracy towards the wishes of the dominant political thread.

In what follows, I will discuss how state power and class were displayed in the 2007 election period. This analysis will be developed against the backdrop of the discussion above. According to Susanne Mueller, “Kenyatta could give without taking away, but Moi had to take away before he could give” (Mueller, 2008, p.188). This is the reason why Moi and his allies resorted to extra-state violence that had never been experienced before. Moi’s presidency was far more repressive due to the reduced opportunities for dispensing rewards compared to his predecessor, Kenyatta. While Kenyatta could reward his followers freely with positions in civil service and farms “belonging” to departing European settlers, Moi was faced with two major obstacles. An obstinate Kikuyu political elite who resisted his rule and multiple demands from his own “tribesmen” –the Kalenjin, and particularly Tugen –his clan members (Kagwanja, 2010, p.12). While initially Moi opted to reward his followers, this proved to be more complicated. As

a result, KANU politicians hired and used gangs to kill and displace opponents in key electoral areas during 1992 and 97 election. The increase in informal violence led to establishment of “privatized public violence” and ethnic clashes such as the 1997 Likoni incident. Moi was able to sustain his power through such informal violence. Unfortunately, the urban gangs also preyed on poor civilians. This was the beginning of the “normalization” of violence. Vigilantes were operating side by side with the official security forces (Kagwanja, 2010, p.13).

In the case of 2007 elections, violence manifested itself in three inter-related categories (ibid, p.13). The first was *spontaneous violence* in ethnically mixed areas such as Nairobi, Mombasa and Kisumu. The second was *organized violence* by political elites mainly in the Rift Valley region, the heart of the land disputes in Kenya (see chapter three). Thirdly, *retaliatory violence* that was organized by criminal gangs who carried the resentment of the locals. And lastly, *state violence* by security agencies who were accused of indiscriminate killings, rapes and other human right violation in post-election period. Because of the diffusion of the violence by various actors, such as urban gangs in slums, militia groups such as (Mungiki and Taliban), the police, GSU personnel and the masses, the government remained overwhelmed and unable to contain the violence. As the violence escalated into country-wide killings and demonstrations, the government proved unable to protect its civilians. The normalization of violence helped to undermine state institutions, the constitution and the rule of law (Kagwanja, 2010, p.13).

Scholars such as Godwin Murunga (2011) have divided the violence into state premeditated violence, mass premeditated violence, planned violence, mass spontaneous violence. For the purpose of this argument on state power, class violence I will focus on the first two categories. The prelude to premeditated violence was characterized by intermediate acts that

may have been violent but were not necessarily planned in advance. This violence should be distinguished from planned violence, which involved prior planning and better coordination.

It is in the example of the looting, harassment and theft that the post-election crisis showed a shift from simple protest to apparently planned criminal acts. Theft and looting were, however, intimately tied to local political dynamics: in some cases, simple jealousy and petty rivalries among neighbors were involved, and in others, unemployed youths took advantage of the lawlessness and disorder to loot property. This resulted in muggings, robbery, vandalism in peri-urban areas of Kisumu, for instance (see appendix, respondent 8)

Under mass premeditated violence one can correctly argue that violence and looting were also a consequence of idleness among the youth, who harbored great bitterness at the lack of opportunities for advancement. This argument also cuts across other marginalized groups such as ethnic minorities, class and gender inequality. It alludes to historic grievances among the masses and marginalized sectors that remained unaddressed, culminating into gross dissatisfaction with the country's leadership and appropriation of resources. Thus, the masses were waiting for an opportunity such as the post-election violence to demonstrate their grievances. The targeting of specific peoples and communities in the urban and rural settings was a manifestation of premeditated violence.

Premeditation by main political actors took the form of politicians using direct or indirect form of violence. Indirect form of violence consisted of ideological manipulation, such as hate speech, ethnic politicization, and class marginalization amongst others. Direct violence consisted of the brutal use of force carried out by state agents, mainly the Kenya Police, the Administrative Police and the General Service Unit. In some places, violence was coordinated through the provincial administration. While the CIPEV Report acquitted the National Security Intelligence

Service (NSIS) and the army on grounds of their comparative preparedness, diligence and discipline, it convicted the other police agencies for their failure. The police failed for several reasons, some related to their inextricable intimacy with the political class in government. Indeed, it is precisely because of government control of the police that the latter exhibited such confidence in manipulating the electoral field and interfering with vote tallies. According to Murunga (2011, p.28), the police preferred to react through force rather than prevent the occurrence of crimes, which is a direct reflection of the Kenyan post-colonial state. Both in the manner of their deployment and in the functions they were assigned, the Administrative Police and Kenya Police were meant to facilitate the defeat of the democratic process by tilting the electoral playing field and, if necessary, forcing a result that favored Kibaki.

The police bear the greatest responsibility for deaths, with 405 dying from gunshots. They mainly targeted Luo Nyanza, where 79.5% of deaths were from gunshots, followed by Western province (72.5%), Rift Valley (26%) and Nairobi (18.4%). The Kenyan Human Rights Commission (2001) estimates that state-sponsored or state condoned violence killed 4,000 people and displaced 600,000 others over the period 1991-2001 (Murunga, 2011, p.31). Much of this violence was sponsored in the Rift Valley and in urban areas, especially in Nairobi where the opposition held sway since 1992. Besides that, numerous studies on democracy and electoral violence in Africa have shown that elections tend to be city matters because most institutions are located within the urban areas. Moreover, studies have also indicated that information tends to circulate more within the major urban cities like Nairobi as opposed to smaller country towns. This explains the relatively larger share of state-elite sponsored violence in times of election in places like Nairobi.

Apart from the use of the police, another form of state premeditated violence is the recruiting and sponsoring of ‘tribal militias’ and gangs so as to terrorize and instigate ethnic and sexual violence. Political elites have coordinated with local gangs to suppress opposition political-parties for their own political gain

Another cause of resentment and discontent among the lower classes in Kenya is the recurrence of grand corruption scandals. According to Kenyan anti-corruption commission, the country has been plagued with endemic corruption at the state level. Corruption is manifested through various forms including petty bribery and grand fraud. The embezzlement of billions of Kenyan shillings over the past two decades have fuelled the tensions among the rulers and the ruled. Most of the scandals were never resolved due to partiality in the justice system. The result has been giving leeway to those in power to amass public resources at the expense of the poor. Grand corruption scandals contributed to the post-election violence in 2007. This is because the popular classes felt alienated and marginalized from mainstream political and economic opportunities. The widening gap between the rich and the poor is perceived as a form of symbolic structural violence (Nyawalao et.al. 2010, p.96). Furthermore, the inability of the judicial system to fairly try political elites who are suspected for such crimes has fostered mass uprising against the government and its arms. This has led to the resentment that has sometimes spawned violent conflicts in regions and the nation at large. A vivid example was the 2007 PEV. Therefore, class disparity and poor economic prospects especially for the youth, was an underlying cause of post-election violence.

In conclusion, electoral violence may be ignited by a disputed election but its root causes lie in the historical marginalization and exclusion of classes. The state is the “ultimate prize”, and access to it will guarantee both the leader, his family and petty bourgeois associates a chance

to access “unlimited” economic resources. In the words of Hornsby, “money is power and power is money” (2012, p.816). The political elites have confirmed this perception by using all means to retain power, including through foul means if necessary. Having the control of resources, popular forces, and of an entire country or constituency makes political elites obsessed with maintaining this position. This obsession over control has been decisive in keeping politicians in power irrespective of their contribution to the national project. According to Makau Mutua, the only solution against state power abuse and excess “freedom” of political class is forging a strong civil society to put checks and balances. In response, Godwin Murunga has challenged this recommendation. He argued that civil society also faces challenges of internal fragmentation and issues of transparency and accountability (Murunga, 2011, p. 48).

I discussed the consolidation of power among the petty bourgeoisie, and the mini-*chaebol* families that often have connections to the political elites. They accumulate massive wealth at the expense of the underclass. The disparity between those who are included in political power and those that are excluded from political power and state resources causes friction and resentment. In the long run, people revolt against the state for using policies that create class divisions and exclusions that favor certain groups. In the case of 2007 elections, where competition was stiff and the stakes were high due to convergence of various factors including ethnic animosity and popular struggle for power, violence became a reality.

CONCLUSION AND IMPLICATIONS FOR PAN-AFRICANISM

The causes of the 2007 post-election violence are complex, multiple, and inter-related. The objective of this study was to examine the underlying causes of the post-election violence rather than to focus on the immediate triggers such as electoral rigging and electoral fraud. The study is guided by my research hypothesis which states that *“in the event of electoral fraud, the higher the social marginalization of those excluded from political power and national resources, the more likely electoral violence will erupt and will be generalized.”* I have argued that electoral violence was not merely a spontaneous independent event; nor was it an irrational display of barbarism by “tribal Africans” as implied in Eurocentric scholarship. The violence in Kenya was indeed atrocious; it was not, however, based on unfounded “savagery.”

The polarization between Orange Democratic Movement and Party of National Unity magnified the nature and complexity of the violence. Those who supported the ODM campaign argued that PEV was due to electoral rigging. Taking an institutionalist approach they simplified the entire violence based on failures of institutions as the Electoral Commission of Kenya and the state security apparatus –the police, General Service Unit (GSU), and the judiciary. To be sure, some arguments can be made in favor of an institutional argument. The nature and the magnitude of the violence revealed that the crisis was exacerbated by the dispute over the elite control of power and the skewed nature of the post-colonial democratic state. For this reason, there is an urgent need to draw up a new constitution and ultimately renegotiate the terms of mass involvement in the decision-making process. Central to this argument is the need to reassert the basic democratic rights of citizenship for all Kenyans (Kagwanja, 2010, p.18). This includes (1) the right to change the government through a free and fair election; (2) the entitlement of all Kenyans to own property and to vote as they deem fit, irrespective of where they are geographically located; (3) the outlawing of hate-speech and false propaganda against any social

group. However, from my analysis institutional explanations and solutions fail to address the underlying causes of the post-election violence.

The post-election violence was a direct reflection of the historically dysfunctional political relationships and structural weaknesses that gradually contributed to the existing animosities and resentment among social groups. These historically socio-political dysfunctions can be traced back to colonial rule, which provided the material as well as the political and ideological base of what is now called “tribalism”.

In this study, the concept of marginalization is situated within two pertinent variables, namely ethnic politicization and class relations. Ethnicity, which is a symbol of identity, and class materialism, which entails social status, evolved to become very effective tools for colonial and post-colonial domination and exploitation. Just as the divisive politics of negative ethnicity and class relations made it easy for the colonialists to achieve their aim of exploiting the colony to serve the capitalistic interests of their home country, after independence the same system mutated itself and had the African elite continue using ethnicity and class marginalization as means of maintaining the hegemonic and exploitative status quo.

A number of political commentators, particularly Western media such as the Guardian and The Wall Street Journal, have been quick to play the ethnic card as the key factor that explains why Raila Odinga’s “Luo” and Mwai Kibaki’s “Kikuyu” were at each other’s throat. However, the 2007 post-election violence was not just an ethnic conflict between two of the largest tribal opposing factions. The political crisis involved numerous ethnic groups, including geographically marginalized communities such as Turkana, the Masaai and even Coastal “tribes.”

On the other hand, for some political analysts, the cause of the violence was not ethnic-politicization; instead it was a long simmering history of glaring poverty and despair, which had now reached its boiling point with a more informed generation of young Kenyans” (Lafargue, 2009, p.179). The violence took place against the background of population growth, a greater disparity in class inequality and youth underemployment. In other words, the divide occurred between the political elites and the ordinary citizens, the inequalities between those who could afford a roof over their heads and those who had been dispossessed. However, for most political commentators as well as the participants in this study, the PEV proved to be more complicated than simply reducing it to lack of employment and poverty elevation. For many the violence represented multiple and interrelated issues that were intricately interwoven throughout the legacy of colonial rule and the post-independence period. These factors were mainly land, ethnicity and class relations (see appendix: respondent 9).

Therefore, I have argued in this study that Kenya’s fragmented political elite resorted to manipulating the genuine economic grievances and the glaring ethnic polarization to ultimately win the vote of “marginalized communities.” In effect, these political differences among elites led to the polarization along two broad contours: ODM versus PNU. It is because of the tools used by both political camps to scramble for the support of the dominant ethnic groups (Kikuyu, Luo, Kalenjin and Luhya) that the 2007 election turned into a high-risk election and probably the most narrowly contested election in Kenya’s history. As discussed in chapter four, ODM built on *majimbo* policy to win the support of seemingly marginalized groups such as Kalenjin and Luo. They attributed the Kikuyu economic edge over other Kenyan groups to the political patronage of Kenya’s first president –Jomo Kenyatta. By highlighting the domination of Kikuyu’s in key economic areas –banking, government, commercial farming, and most importantly land

ownership, they were able to reignite the existing ethnic animosities that were constructed by British colonizers through their “divide and rule” policy that was later adopted by post-colonial authoritarian regimes.

In her book, Writing and Speaking from the Heart of Mind (2012), Micere Mugo, captures this argument well and further proposes solutions. She states that ethnic cultural differences are not the basic cause of ethnic conflict, rather the divisive ethno-political agenda set by those in power (Mugo, 2012, p.151). Such divisiveness facilitates false consciousness based on geographical affinities and dismissal of “other” cultural beings. Communities easily become targets to this form of elite-based manipulation because of their “perpetual state of wretched poverty” which they are subjected to. In this argument, the intersection between ethnic-politicization and class relations becomes a constant reality that can lead to conflict, if not addressed. Using a Pan-Africanist approach, Mugo suggests that what is needed is “true conscientization”, which will enable the masses to come together as a collective group with a common culture to overcome economic deprivation. In other words, people need to constitute new “ethnicities” based on common history of economic struggle. This can be done by active psychological remapping of the African people (ibid, 2012, p.152). She also acknowledges the importance of activating regional unities, communities and economic federation that may weaken ethnocentrism.

Land ownership is ranked high in Kenya’s socio-economic priorities. Most Kenyans aspire to have land because it presents a vital link to their “primordial” identity, wealth, welfare and status. Throughout this study, land was discussed hand-in-hand with the post-independence construction of ethnically based patronage. It was also discussed through class formation. The resettlement program had a class dimension in terms of those with capital being able to

accumulate more land at the expense of the “landless” class. The goal of resettling the indigenous communities through re-Africanization policy was thus defeated from the outset, translating into a basis for ethnic conflict (Kagwanja, p.2010, p.82). The landed elite took control of both the politics and economy of “white highlands” and used violence to deflect attention from the injustices they committed. The existence of historical injustices relating to the access, ownership and use of land is central to the debate on historical marginalization and electoral violence in Kenya. In fact, it is through the colonial land alienation and dispossession that class disparity and ethnic animosity was built on in the post-colonial period. The class aspect of the land question has a role in deepening conflicts. Yet, the past governments were not able to find any viable solution to this problem. These factors provided fodder to the political elite during the 2007 campaigns. Even after the 2007 electoral violence, the coalition government failed to address the land question.

The reinvention of migration and acquisition of land in key political and geographical areas such as Rift Valley, Central Kenya and Coast Province provided the opposition party with an ideological base on which to construct the “forty-one against one” rhetoric. This background enabled the opposition group at the time to create an impression that the “Kikuyu had set themselves up for resentment and retaliation” in what transpired in the 2007 elections (Kagwanja, 2010, p.13). Yet, this was far from the truth. Most of the victims of the post-election violence were poor families, particular Kikuyu IDP who were deposed of their land in Rift Valley; land which they were legally given by the government as a form of compensation for the land they lost in central province (their ancestral home) to wealthy political elites, European settlers and multinational corporations. In the end, *majimboism* set the stage for divisive binaries of natives vs. settlers, and indigenous vs. foreigners. Such rhetoric elevated the notion of ethnic

citizenship over civic citizenship. Those who were regarded as foreigners were stripped of their rights, thus setting up retaliatory violence and ultimately widespread chaos throughout the country which, in turn, led to displacement of communities. In my opinion, the danger of violence is likely to diminish when politicians set policies that promote common interest rather than “insider” and “outsider” rhetoric.

All regimes, Kenyatta’s tenure (1963-1978), Moi’s single party era (1968-1992), Moi’s multiparty era (1992-2002), and Kibaki’s era (2002-2007), demonstrated the role of state power and class in the decision-making process, and the growth of armed militia associated with politicians, particularly in Moi’s repressive era. The centralization of power within the presidential office was one of the major contributors to the post-election violence. According to the Waki Commission, the personalization of power around the presidency intensified the belief among Kenyans that it is essential for the ethnic group from which they derive to win the presidency so as to guarantee access to state resources. The Kriegler Commission on the other hand, cited as one of the major contributors of the violence the proliferation of violence by an armed militia, often with political connections (Republic of Kenya, 2009, p.66). The normalization of violence –during the electoral period and every day – was used to justify the generalization of violence nationwide.

If social marginalization from political power and national resources as claimed in the hypothesis was an underlying cause of PEV, why was the bulk of the violence experienced in non-marginalized areas such as the capital city and other major towns where the distribution of national resources appears to be more “equitable”? There are several proposed answers to this question. Stephan Dercon and Roxana Romero suggested two explanations that may offer the primary connections to electoral violence. The first explanation is that people who had land

disputes were more likely to be involved in post-electoral violence (Dercon & Roxana, 2012, p.44). In other words, people who had land disputes prior to the elections were more likely to have been affected by PEV either as the ones instigating the violence or as victims of the violence. This explanation suggests that violence could have taken place in any part of the country where communities or individuals felt aggrieved from land disputes but not necessarily where social marginalization was highest. The five main provinces where land disputes were historically high include Nyanza, Rift Valley, Western, Coast and Central Province, where the city of Nairobi lies. Land disputes may lead to electoral violence through the role played by politicians. In his article, “Electoral Geography and Conflict,” Kimuli Kasara argues that politicians provoke violence where there is inequality between groups in order to displace their opponents from some areas (Kasara, 2014, p. 29). Rift Valley’s history as one of Kenya’s most fertile regions that has been characterized by historical injustice of land distribution made it a hotspot for the 2007 conflict.

The second explanation is that people living in areas where politically connected gangs operated were more likely to be victims of post-electoral violence. The rationale is that political elites aim to suppress opposition political parties by recruiting and sponsoring “tribal militias” and gangs so as to terrorize the populace and instigate ethnic violence. These gangs were ready to instigate violence, thus increasing the chances for people to become victims in areas where these gangs operated. Since the 1990s these gangs have operated in urban areas, particularly in Kibera slums in Nairobi.

Numerous studies on democracy and electoral violence in Africa provide the third explanation. They have shown that elections tend to be city matters because most institutions are located within the urban areas. These studies have also indicated that information tends to

circulate more within the major cities like Nairobi as opposed to smaller country towns. In this regard, younger voters supported the opposition party ODM which campaigned under the banner of “change”. The Kenyan urban youth are regarded as one of the major stakeholders because of their numbers, their lack of employment opportunities, and because they were barred from peaceful protest, which compelled them to seek violent measures in PEV.

These explanations do not, however, invalidate the role played by ethnic and class marginalization. They only confirm my hypothesis. In fertile and not materialized marginalized areas such as Rift Valley, ethnic polarization and marginalization led to electoral violence. In other less marginalized areas such as Nairobi, a mixture of poverty, class and ethnic marginalization were triggers of electoral violence as well. Electoral violence in non-marginalized areas is linked to poverty, a proxy of relative deprivation and grievance. Indeed, scholars have argued that poverty motivates people to be violent. Scholars of African politics have argued that grievances in terms of resource deprivation and poverty can lead to rebellion, protest and civil conflict. Proponents of class analysis have delineated the close connection between the marginalization of some classes and the way the distribution of resources takes place.

Drawing from various literary sources and interviews I conducted, I would argue the post-election violence was not simply an expression of ethnic rivalry for power but rather a product of rising expectations due to the increase in democratic space at the time. These rising expectations were fed by opinion polls and surveys consumed around the country during the campaign and election period. Also, the spread of communication technology, or the “digital revolution” played a crucial role in the 2007 election. Above all, however, the PEV was fueled

by the exclusion of certain ethnic and class groups from political and economic resources. In the event of electoral fraud such as occurred 2007 election, this exclusion inevitably causes violence.

Lessons for Pan-Africanism

The violence that followed Kenya's 2007 general election caught many by surprise, because Kenya's democracy was viewed as the most successful in the region, especially after the smooth political transition in 2002. It also marked the end of Kenya's regional uniqueness, the deceptive era of normalcy and civility that had differentiated it from neighboring countries. Apart from Tanzania, Kenya was the only country in East Africa that had not undergone a major armed conflict. The international community as well as the civil society missed several warning signs that could have been used to prevent the magnitude of the violence. Instead they were lulled by the relative peace of 2002 election and 2005 referendum.

The 2007 Kenyan crisis, alongside the case of Zimbabwe and Cote d'Ivoire, creates a dangerous precedent for other African countries. An incumbent government or an opposition party that is unwilling to accept defeat (in a situation in which they clearly lost) can foment immense violence. While power sharing has become an attractive alternative method to avoiding violence and gross human rights violations, I believe that solution is merely a short-term answer to a long-term problem. Providing this option allows the incumbent to rely on coercion to resist democracy. On the other hand, it sends the message that "losers" merely need to refuse the electoral outcome by resorting to unconstitutional and violent actions. As a pan-Africanist, I argue against the notion of power sharing. The key is to change the zero-sum quality of elections so that politicians do not resort to an appeal to ethnicity and use of violence against their opponents. Because politicians and political parties are driven by the desire to acquire access to state resources and patronage, they make elections a do or die zero-sum exercise. If elites cannot

find a means of ruling without viewing everything through the lens of corruption, ethnicity and class self-interest, then the situation is likely to recur. Whilst reforming the electoral system and changing the rules of the political game seem crucial, the efforts will be fruitless unless the supporting state institutions are also reformed. These include state-owned media, the judiciary, the police, and the security agencies, which is far more easily stated than achieved, especially in the face of political resistance. Of course, these reforms will not take root unless the mentality for making political calculations changes from that of playing an exclusive zero-sum game to that of embracing proportionality and consolidation of democratic rule.

In the case of Kenya, it is worth noting that the dispute over election results was never resolved. Each camp believed it was right, and each camp wanted to belong to the winning side. Yet, the institutions that were responsible for establishing the “victor” are not able to confirm who really won the elections. The chair of ECK, Samuel Kivuitu, acknowledged in a press meeting that he does not “know if Kibaki won the elections.” This provided a stronger reason for people to protest against the government and its institutions. The Kriegler Commission reported in 2008 that “the conduct of the 2007 elections was materially defective and that it is impossible –for IREC or any other agency –to establish true or reliable results for both presidential and parliamentary elections” (Kagwanja, 2010, p.109).

The Kenyan mediation process generated a number of lessons that are valuable for the Pan-African world at large. The first lesson is that intervention matters but the speed of intervening is even more important (Kathina, 2010, p.164). Dealing with protracted electoral disputes tends to be more complicated and difficult to resolve. Secondly, the character of the mediating team is also crucial. In the case of Kenya, the mediators embodied expansive experience, expertise, network and mediation skills to address the myriad issues. In fact, both

leaders were able to come to the negotiating table because they had confidence in the mediation team.

But, external efforts to mediate the Kenyan crisis still faced major obstacles. Proud Kenyan politicians saw Kenya as an exceptional state in the region. The incumbent president believed that the issue could be resolved through the use of security forces. Kenya has historically taken the role of mediator in most regional conflicts, including Sudan, Somalia and even Uganda with regard to the LRC. Thus, it associated mediation enterprises with failed states. Accepting the intervention of outside mediators meant that the sovereignty of the country was at stake. The idea behind an AU promoted mediation was to find African solutions to African problems; rather than seeking Western institutions that often categorized African leaders as violators of human rights. The Annan mediation team signaled Africa's determination to assume a proactive role in finding viable solutions to maintain stability and democracy in the region (Kagwanja, 2010, p.170). Besides that, it also elevated the perception of Africans in the international community as a collective entity that seeks to uphold its dignity and to promote unity in the continent and Pan-Africanism. In essence, this was an example of Ubuntu.

The analysis suggests a number of solutions or proposals for the Pan-African world. The first lesson concerns the institutions of recourse. The Kenyan crisis showed that regional institutions for "conflict" resolutions ought to be strengthened and promoted throughout the continent. The crisis underscored the importance of stable states as the foundational pillars for regionalism, security, prosperity and identity. An aspect of this institutional strengthening is the human rights of citizens in a country like Kenya. Given that what happened in Kenya has been repeated in other countries in Africa, human rights becomes a fundamental issue that Pan Africanists need to address. The analysis has shown that both ethnic and class marginalization

and the inability to respect the institutional principles were at the basis of gross human rights violations in Kenya. In order to avoid such violations in other countries in Africa, there is a need to reinforce African Union's Commission on Human and Peoples' Rights.

The analysis also suggests that Kenya's history of ethnic and class marginalization has been at the root of the violence that took place in 2007 and before then. The lesson for Pan-Africanism is that these two causes, be it in Kenya or other parts of Africa, need to be addressed institutionally. Given that both ethnic and class marginalization formed around the state, the institutional solution consists of decreasing the enormous power in the hands of the holders of state power. One way of doing this is to increase the potential power of the lower classes and ethnic minorities' vis-à-vis the state and those who hold power. The Kenyan case has proved that doing so at the individual state level is not necessarily feasible. Moreover, attempts to do so have been very often frustrated by the power holders. For this reason, the institutional way of preventing ethnic and class marginalization at the state level is to make it applicable to all the African countries. Once again, the institutional outlet is the African Union. I suggest that the intercontinental organization create an organ through which African underclass and ethnic minorities can find redress for their grievances against the behaviors of their states that might precipitate violent outburst.

APPENDIX

INTERVIEW QUESTIONS

1. Where were you during the post-election violence in 2007?
2. Did your location at the time of the post-election violence color your perception of the event? If so, how?
3. Have you discussed or written any material regarding the post-election violence in 2007?
4. According to you, what made the 2007 general election unique/different from prior elections (1992, 1997, and 2002)?
5. In your opinion what may have been the underlying cause of the Post-election violence?
6. Regardless of your answer to question 5, would you say electoral fraud played a role or was contributing factor to the post-election violence? If so, how?
7. In the event that electoral fraud did not occur, do you think political violence of the same magnitude would have occurred? (*Explain*)
8. Would you say that the Kenyan state provides the conditions for socio-economic and political marginalization of some groups in society to take root?
9. Regardless of your answer to question 5, would you say that the marginalization of some groups in society may have contributed to the post-election violence? If so, how?
10. Regardless of your answer to question 5, would you say that the Kenyan ethnic relations played a role in post-election violence? If so, how?
11. Regardless of your answer in question 5, what role do you think the new democratic institutional framework played in the post-election violence?

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